

Appellate

After a hard-fought trial, it is vital that representation at the next level be provided by experienced lawyers who know the battlefield. Consider: In 1950, there were 40 appellate filings per federal appellate judge; by 1990, there were 200; today, there are well over 300. The story is the same in state courts. These numbers underscore the importance of advocacy that stands out by its excellence. It is that characteristic that sets Lane Powell's appellate lawyers apart. We focus not only on appellate procedure, but on appellate persuasion — which is one reason why our Appellate Team is highly ranked by *U.S. News – Best Lawyers*[®] in its annual “Best Law Firms” rankings.

The experience of our appellate attorneys is reflected by their involvement in significant cases that have shaped the development of law in state and federal courts.

The members of our Appellate Team are known for their skill and credibility in the courts in which they appear and that, in the end, can make all of the difference.

Experience

Ormco Corp. v. World Class Technology Corp (Appeal)

Case No. Appeal Nos. 2013-1679 and 2014-1692

Represented World Class Technologies in this patent infringement matter involving orthodontic braces.

World Class Technology Corp. v. Ormco Corporation

Case No. 2013-1679; 2014-1692 | U.S. Court of Appeals, Federal Circuit

Represented World Class Technology in a case against one of its largest competitors, Ormco Corporation. The case sought a declaratory judgment that WCT did not infringe Ormco's patent relating to an orthodontic bracket.

In re L&L Energy, Inc. Securities Litigation

Case No. 13-cv-6704-RA | U.S. District Court, Southern District of New York

Represented L&L Energy and various current and former directors and officers in two sets of securities class actions in federal court in Washington and New York, five shareholder derivative actions in federal and state court in Washington and Nevada, and potential opt-out litigation.

Washington Health Care Association v. Arnold-Williams, et al.

Case No. 601 F. Supp. 2d 1224 | U.S. District Court, Western District of Washington

Order invalidating legislation requiring assisted living providers to retain Medicaid residents after termination of their Medicaid contracts in violation of the Contracts Clause of the United States Constitution.

Grant v. First Horizon

Lead attorney for briefing and oral argument in successful defense of appealed summary judgment order dismissing wrongful foreclosure claim — the case involved complex appellate procedure questions as well as more typical wrongful foreclosure issues).

First Interstate Bank v. WestCap, et al.

Case No. 74 Wn. App. 900 | Washington Court of Appeals

Represented lender in \$5.3M foreclosure case; summary judgments affirmed on appeal.

Blanton v. Texaco

Case No. 914 F. 2d 188 | U.S. Court of Appeals, Ninth Circuit

Represented putative franchisor in franchise dispute under Washington Franchise Investment Protection Act; summary judgment affirmed on appeal.

Paper Manufacturer v. Ellis et al.

Case No. 85-2-09627-4 | King County Superior Court

Represented paper manufacturer in dissenting minority shareholder valuation; co-counsel in four-week bench trial; victory for client.

Um v. Spokane Rock I, LLC

Case No. 904 F.3d 815 (9th Cir. 2018)

Represented creditor on appeal of bankruptcy court ruling that individuals ineligible for a discharge in Chapter 7 cannot obtain a discharge in Chapter 11 by being employed in an unrelated business after plan confirmation.

Lyft, Inc. v. City of Seattle

Case No. 418 P.2d 102 (Wash. 2018)

Represented transportation network company Uber on appeal to Washington Supreme Court of decision upholding order enjoining City of Seattle from disclosing trade secrets in response to public records request.

Bassett v. ABM Parking Services, Inc.

Case No. 883 F.3d 776 (9th Cir. 2018)

Represented ABM on appeal of district court's conclusion that plaintiff lacked standing under *Spokeo* to bring claim for alleged violation of Fair and Accurate Credit Transactions Act (FACTA).

Washington Federal v. Azure Chelan LLC

Case No. 382 P.3d 20 (Wash. Ct. App. 2016)

Represented Washington Federal on appeal of trial court ruling quieting title in favor of junior lienholder based on senior lienholder's failure to foreclose interest in property within statute of limitations period.

New Cingular Wireless PCS, LLC v. City of Clyde Hill

Case No. 374 P.3d 151 (Wash. 2015)

Represented taxpayer on appeal affirmed by the Washington Supreme Court establishing taxpayer's right to bring declaratory judgment action to challenge a city assessment by filing a de novo action in superior court.

Pacific Boring, Inc. v. Staheli Trenchless Consultants, Inc.

Case No. 708 Fed. App'x 324 (9th Cir. 2017)

Represented engineering firm on appeal of district court dismissal of professional negligence claims because Washington's independent duty doctrine barred recovery for contractor's economic losses.

Washington Federal v. Harvey

Case No. 340 P.3d 846 (Wash. 2015)

Represented Washington Federal on appeal to Washington Supreme Court of trial court's erroneous conclusion that Washington's Deeds of Trust Act prohibited deficiency action against guarantors following nonjudicial foreclosure sale.

Carole Coppinger-Martin v. Hilda Solis, et al.

Case No. 627 F.3d 745 (9th Cir. 2010)

Represented Nordstrom on appeal of final order of the Department of Labor's Administrative Review Board dismissing Sarbanes-Oxley Act whistleblower claim on statute of limitations grounds.

City of Puyallup v. Hogan, et al.

Case No. 277 P.3d 49 (Wash. Ct. App. 2012)

Represented Borders on appeal of trial court's finding that Borders was entitled apportionment of landlord's just compensation award in condemnation action based on diminished access to shopping center.

Koss v. Norwood

Case No. 305 F. Supp. 3d 897 | U.S. District Court, Northern District of Illinois

Lead class counsel for a class of impoverished individuals in the State of Illinois meeting long delays in the processing of their applications for long term care Medicaid benefits.

Carr v. United Healthcare Services Inc.

Case No. 2:15-cv-01105 | U.S. District Court, Western District of Washington

Defended United HealthCare Services, Inc. (UHC) in a large complex class action lawsuit concerning all of UHC's self-funded plans nationwide.

Nail v. Consol. Res. Health Care Fund I

Case No. 229 P.3d 885

Reversed order denying arbitration in claim against nursing facility.

Brandrup v. ReconTrust Co., N.A.

Case No. 353 Or. 668, 303 P.3d 301 (2013)

Addressing eligibility of MERS to serve as trust deed beneficiary.

Omnicare, Inc. v. Laborers District Council Construction Industry Pension Fund

U.S. Supreme Court | District of Columbia

Principal author of amicus brief in the U.S. Supreme Court on behalf of the Washington Legal Foundation, helping to establish the standard for when a statement of opinion will be considered false under the federal securities laws.

A.D. v. T-Mobile USA, Inc. and United Healthcare Services, Inc.

Case No. 2:15-cv-00180 | U.S. District Court, Western District of Washington

Represent T-Mobile and United Healthcare in a putative class action alleging that the Employee Benefit Plan provided and administrated by our clients unlawfully excluded an intensive behavioral intervention treatment called Applied Behavior Analysis (ABA) from among the many treatment options covered by the Plan for autism spectrum disorder.

Lendingtree, LLC v. Washington Department of Revenue

Case No. 460 P.3d 640 (Wash. Ct. App. 2020)

Represented taxpayer on appeal to obtain refund of business & occupation tax improperly assessed on taxpayer's online loan marketplace by Department of Revenue.

City of Seattle v. KMS Financial Services, Inc.

Case No. 459 P.3d 359 (Wash. Ct. App. 2020)

Represented taxpayer on appeal to obtain refund of business & occupation tax unconstitutionally apportioned by the City of Seattle on taxpayer's out-of-state and out-of-city activities.

Kunath v. City of Seattle

Case No. 444 P.3d 1235 (Wash. Ct. App. 2019)

Represented taxpayer citizens on appeal in successful action to enjoin enforcement of city ordinance that imposed a graduated income tax on high-income residents of the City of Seattle.

Recent Appeals

Um v. Spokane Rock I, LLC

Case No. 904 F.3d 815 (9th Cir. 2018)

Represented creditor on appeal of bankruptcy court ruling that individuals ineligible for a discharge in Chapter 7 cannot obtain a discharge in Chapter 11 by being employed in an unrelated business after plan confirmation.

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