

Experience

Securities Broker/Securities Act Cases

2017

Represented Canadian securities brokerage firm with U.S. clients in FINRA investigation. Convinced FINRA to terminate the investigation with no action taken.

2015

Obtained dismissal with prejudice of claims filed in state court against JP Morgan Securities and JP Morgan Chase by beneficiaries of a securities customer IRA. Our alternate relief request was to send any claims that survived our motion to dismiss to FINRA arbitration. We demonstrated that the plaintiffs could not state a claim as a matter of law, because they could not prove causation. All claims were dismissed.

2014

Gig Harbor Family Trust et al. v. Columbia Valuation Group, Inc. et al, King County Cause No. 13-2-04399-8 SEA. Teamed with partner to take over defense shortly before trial of an appraiser who had been sued for negligent misrepresentation and violations of the state securities and consumer protection acts. He had appraised an office building that served as collateral for a loan. The loan/trust deed was fractionalized and sold to investors by a "hard money lender." The borrower defaulted; 18 investors claimed they were led to invest because of an inflated appraisal and lost over \$1.5 million after the office building was sold. The investor-plaintiffs were represented by a Fellow in the American College of Trial lawyers with ample recognition by other rating sources. After a two-week trial, the jury dismissed all claims against our client in less than two hours.

2011-2012

FINRA Case No. 10-05313. Won dismissal of \$26 million FINRA arbitration case defending major broker-dealer, nationally recognized financial advisor and highly capable sales assistant. Claimants were a family LLC and six trusts that held the fortune amassed by the founder of a successful business. With his mental capacity declining, the 90-year old founder replaced himself as LLC manager and trustee with his grandson, who was the primary beneficiary and a registered investment advisor who also held securities sales and supervisor's licenses with another firm. For years prior to the change in control, our clients had recommended portfolios of laddered, investment grade bonds. The grandson liquidated the bond portfolios and pursued an unsolicited and highly risky investment strategy, losing the entire \$26 million fortune in 2008. The claimants alleged that our clients were obligated to intervene and halt the grandson's risky trading in view of the amount of commission income being generated by the new strategy, the hazards to the founder's interest and the implication of "elder abuse" by the grandson. We showed that our clients were faithfully executing unsolicited orders and reasonably believed the claimants' accountant and attorney were involved, and the accounts were to be supervised by the firm with which the LLC manager/trustee was licensed. The arbitrators denied the claims in their entirety.

Credit Suisse Securities et al. v Simmonds, SCOTUS No. 12-691. Participated in briefing and sat at counsel table for oral argument by lead counsel Kirkland Ellis in U.S. Supreme Court case in which the Court adopted our clients' argument on the statute of limitations in Section 16(b) of the Securities Act of 1934, covering "short swing" profits. The primary ground asserted by our underwriter group was that the two-year statute of limitations had started to run on the dates of the alleged short swing profit transactions — between 1998 and 2000. Plaintiff argued that our clients, their key customers and the directors and officers of IPO issuers had acted as a group in each offering, obligating them to file a Section 16(a) 10 percent beneficial ownership report, notwithstanding an exemption for underwriters. Plaintiff relied on a Ninth Circuit opinion holding that the

statute of limitations in 16(b) was not triggered until a 10 percent beneficial ownership report had been filed under Section 16(a). No such report had been filed. The Supreme Court reversed, adopting our argument 8-0 and adhering to the district court's view that the limitations period could be equitably tolled, but that extensive publicity surrounding multi-district class actions around 2002 would preclude equitable tolling.

SEC Administrative Proceeding No. 3-13997. Defended Canadian Chartered Accountant in SEC Rule 102(e) administrative proceeding seeking suspension of public accounting practice before the Commission for three years or more. The accountant had assumed the role of a "manager" doing fieldwork in the audit of a U.S. public company and was supervised by a U.S. accounting firm subject to the PCAOB. The U.S. firm audit partners agreed to three-year suspensions and other relief. Even though we could not procure expert testimony that auditing standards had been met, we were able to limit the suspension to two years.

FINRA Case No. 10-00536. Defended securities broker-dealer in case brought by elderly couple represented by premier national "selling away" counsel after securities regulators had permanently suspended former representative terminated by firm. Firm rejected claimants' settlement demand that was nearly twice what client firm was willing to pay. Award was almost exactly as predicted, and little more than half the claimants' final settlement demand.

2010

Co-counsel with national law firm Davis Polk in defense of underwriter of several collateralized debt obligations of roughly \$100 million each in cases brought by the Federal Home Loan bank of Seattle alleging securities fraud under Washington State Securities Act. Case later settled after exposure reduced to one of two instruments at issue.

Assisted in defending the New York Stock Exchange (NYSE Arca) in a case brought in federal district court in Seattle. Served as co-counsel to NYSE Arca's primary outside counsel, Milbank Tweed. Plaintiff alleged damages resulting from payments it made to reimburse customers who claimed to have lost money on trades induced by a stock price that was allegedly — but never actually — reported on the NYSE Arca electronic exchange and was far below the usual trading range for that stock. NYSE Arca filed a motion to dismiss on various grounds, including immunity accorded regulatory organizations. Immediately after our co-counsel's oral argument on July 13, the court dismissed the complaint against NYSE Arca with prejudice on several grounds.

2008-2009

In re 16(b) Litigation, No. C07-1549JLR (USDC, WDWA). Served as local counsel and participated in strategy and brief writing for ten investment bank-underwriters sued in 54 cases seeking hundreds of millions of dollars to be disgorged as short swing profits from issuers and underwriters in IPOs from 1998-2001. Cases were coordinated, omnibus motions to dismiss were filed by underwriters and issuers based on limitations period expiring and other grounds. Cases were dismissed on March 12, 2009 due to expired limitations period and inadequate demand upon issuer defendants. After appeals, SCOTUS affirmed this dismissal in 2012.

FINRA Case No. 08-0450. Defended securities broker-dealer in customer arbitration alleging out of pocket losses over \$1 million and consequential damages over \$3 million based on unsuitable recommendations. Panel dismissed all claims, imposed forum fees on claimant, expunged individual representative's record of complaint and awarded \$50,000 attorney fees to client firm.

FINRA Case No. 09-04075 and FINRA Case No. 08-04249. Appeared for investment adviser and clearing broker in one case and broker-dealer in another, and in both cases induced counsel for claimant to dismiss with prejudice.

Oak Hills Drilling/Lexington Oil and Gas, Adv. No 08-08039 in Bankruptcy Case No. 08-80228-M, and E.D. Ok. Case No. 09-96-FHS. Defended venture capital investor in Oklahoma bankruptcy adversary proceeding brought by trustee seeking recovery of \$4.6 million in trade creditor debt and \$2.4 million in preference payments to affiliated secured creditors. Similar investors in different adversary proceeding where trustee sought only \$1.5 million were held liable for full amount. We successfully moved most of the claims from bankruptcy to the federal district court, moved for dismissals and settled for \$250,000, approved by the bankruptcy court.

State of Washington Department of Financial Institutions, Securities Division Case No. S-08-141-08-SC01. Represented major firm institutional broker-dealer affiliates in auction rate securities investigation brought by a number of state securities regulators and enforcement action brought by local state regulator. Positioned clients for very good settlement to coordinate with larger affiliate also settling with multiple state regulators.

2006-2007

Represented Canadian and U.S. individuals and U.S. Company in SEC investigation of stock transactions in OTCBB company, concerning possible registration, reporting and antifraud violations, market manipulation and insider trading. Represented a number of securities brokers-dealers and individuals in a variety of state securities regulatory investigations including suitability of variable annuity sales, supervision, registration of real estate notes and investment advisor conduct.

2004-2005

Defended many customer claims in arbitration cases. About ten went to hearings, but one was against a settlement recommendation and only one other award exceeded a claimant's settlement demand. Defended Canadian stockbroker in SEC administrative proceedings in Denver, CO, in which Enforcement Division alleged numerous violations against seven respondents, stemming from Reg S violations of stock traded in public company OTC. Division sought to disgorge \$27 million from Canadian client. Defeated anti-fraud claims and limited disgorged amount to \$1 million compensation admittedly earned and offered to Division all along, less taxes paid.

2003

Prosecuted securities broker-dealer's contribution claim against former rep who had fraudulently sold unapproved products concealed from firm, then filed bankruptcy when customers complained. In bankruptcy adversary proceeding, obtained \$1.4 million judgment of non-dischargeable debt to firm.

Obtained dismissals of firms and brokers in two arbitrations involving high yield bond fund and tech stocks. Defended firm, two managers and rep who had advised retired claimants to mortgage home and invest in aggressive growth funds, violating managers' policy. Case had unavoidable exposure of \$30,000 - \$60,000. Tried to settle, but claimants demanded \$180,000. Obtained dismissal of two managers, and limited award against the firm and rep to \$42,000.

2002

Defended broker in arbitration in which customer alleged failure to sell short or recommend short sale of stock in internet retailer in which customers held restricted shares. Obtained dismissal with no liability. Defended firm in "selling away" case in Idaho state court; procured dismissal with no liability.

2001

Defended securities firm in series of selling away cases in California NASD arbitrations. Procured increasingly favorable settlements, declining to ten percent of out-of-pocket losses in final cases.

2000-2001

Buskey v. Morgan Stanley Dean Witter. Headed team of attorneys in several law firms defending broker-dealer in Boise, Idaho state court case. Plaintiffs alleged unsuitable recommendations and churning, and sought over \$1 million in "well-managed portfolio compensation" and punitive damages. After successful summary judgement motions dismissing almost all claims, plaintiffs settled for \$15,000.

1999-2000

Regulatory matters. Represented several employees in regulatory investigations concerning trading in their employers' publicly traded stock.

Defended firms and stockbrokers in NASD arbitrations that settled and induced one claimant to withdraw claims against broker by providing documents disproving claim at outset and citing legal authority for recovery of defense fees and costs. (Replaced two New York law firms who had been unable to induce the dismissal.)

Getty v. Harmon. Teamed with partners to defend stockbroker/insurance salesman in federal court class action in Seattle under the PSLRA, and served as special securities defense counsel in parallel grand jury proceedings. Subverted class damage theories to spark a settlement highly satisfactory to client and his insurance carrier.

1996

NASD Case No. 95-0537. Defended firm and assisted pro se former broker against customers claiming losses around \$150,000 from placing entire \$200,000 portfolio in non-public California real estate partnerships. Client firm was only required to repurchase one limited partnership investment for \$13,000 (then worth several thousand dollars), and former rep funded half of repurchase.

1995-1996

NASD Case No. 94-12746. Defended individual broker against Montana state securities fraud claims by customers who invested in vermiculite mining venture. Before retaining counsel, client had been fined \$10,000 and barred from industry by NASD for selling away, and firm defended on selling away theory. Upon motion based on affirmative defenses, obtained no-liability defense verdict--dismissal of claims with prejudice at close of claimants' case (enabling firm to avoid liability as well).

1994-1995

AAA Case No. 75 136 00094; WDWA Bkcy. No. 95-00573. Prosecuted securities fraud and related claims on behalf of four investors who had lost \$405,000 in gold mining venture. Obtained AAA award of \$600,000, and in related bankruptcy proceeding settled with mining company and managers for \$535,000.

1994

Albar, Inc., JAMS. Appointed as special master by Seattle JAMS Judge to assist in decision involving closely held corporation buy-out of minority shareholder-president by majority shareholder. Advised arbitration judge on issues of shareholder, director and officer responsibility, stock valuation and damage claims. Supervised ongoing business operations pending hearing.

1993-1995

NASD Case No. 93-01590. Defended brokerage firm in \$2 million case in St. Louis brought by 35 investors throughout the country alleging securities fraud, RICO and other liability arising from real estate partnership syndication. Settled case for approximately 60% of out-of-pocket losses, recommended filing coverage action against E&O insurance carrier, which had denied coverage. No reported cases supported coverage arguments,

but convinced federal district court in St. Louis to bar exclusions relied upon by carrier, obtained partial summary judgment by distinguishing precedents applicable to insurance rather than equity securities and followed up with extremely favorable settlement covering almost all of the payment made to the underlying claimants.

NASD case No. 92-03433. Defended broker-dealer in NASD arbitration in Tampa, Florida. Claimant alleged securities fraud and other Florida statutory and common law liability based on unsuitable investments recommended by a top management official who had an exemplary record. Obtained no liability defense verdict.

Arth v. Auravision, (Washington State court) Pierce County Cause No. 86-2-01317-8 and *Pounds v. Auravision*, Pierce County Cause No. 86-2-01317-8. Defended accountant in two state court suits involving master recording tax shelter. *Pounds* contained one plaintiff alleging damages approximating \$100,000 plus attorney fees, while *Arth* contained about 15 plaintiffs alleging damages of around \$1 million plus attorney fees. Obtained summary judgment dismissing case brought by single plaintiff and obtained no liability voluntary dismissal with prejudice of multiple-plaintiff case.

1992

Braun v. Smith, USDC/WD WA Case No. C88-1587R (federal court in Seattle). In class action alleging over \$7 million in damages, defended prominent Seattle law firm that had acted as bond counsel in municipal securities offering. Filed summary judgment motion, then negotiated settlement for much less than remaining cost of defense.

August 1992

Thacker v. Dean Witter Reynolds Inc., USDC/WD WA Case No. C91-962D (federal court in Seattle). Defended brokerage firm and local account executive in suitability case alleging federal and state securities act violations, RICO and other statutory and common law liability. 85-year-old plaintiff alleged damages of \$1 million (trebled to \$3 million under RICO). Procured dismissal of RICO claims on summary judgment. At mediation, with summary judgment motion pending on remaining claims, negotiated favorable settlement for confidential amount far below plaintiff's prior settlement demands.

February 1992

NASD Case No. 91-00612. 84-year-old widow sought \$250,000 plus attorney fees alleging securities fraud and other statutory and common law liability for unsuitable investments by broker who transferred from one respondent firm to another. Defended one firm, secured cooperation by all respondents' counsel and advanced successful affirmative defense theories leading to no liability verdict for all respondents.

1991

In Re Nordstrom Securities Litigation, USDC/WD WA, Cause No. C90-295C. Teamed with other Lane Powell lawyers defending client Nordstrom in shareholder class action fraud on the market lawsuit alleging federal and state securities fraud and other statutory and common law liability. Interviewed traders and securities analysts in brokerage firms throughout the United States and deposed several. The class plaintiffs alleged roughly \$200 million liability, and settled for \$7.5 million, half the amount reserved by our client.

September 1991

Bennett v. Malony et al., (Washington State Court) King County Cause No. 86-2-08163-1. Defended attorney who served as escrow agent in financing of condominium development. Plaintiff, the Masonic Lodge of Washington, sought \$250,000 plus attorney fees based on state securities act and other grounds. At trial, obtained predominantly defense verdict (well below plaintiff's and below client's last settlement offer) despite

numerous errors by trial court. The trial judge altered the jury verdict and increased damages to \$250,000. Appealed for client and obtained reversal of trial court's j.n.o.v. and reversal of trial court's denial of defense motion for directed verdict, resulting in no liability verdict for client and recovery of costs on appeal. Appellate opinion describing case at 63 Wn. App. 180, 817 P.2d 868 (1991).

1990

Hollinger v. Titan Capital Corp., 914 F.2d 1564 (9th Cir. 1990) (en banc). Defended brokerage firm in federal court lawsuit in Seattle commenced around 1986 alleging federal and state securities fraud and other state common law and statutory liability. Obtained summary judgment dismissal of claims against client brokerage firm, notwithstanding that rep had defalcated plaintiffs' funds. Represented brokerage firm in nationally prominent appeal in which Ninth Circuit altered its test for control person liability under the federal securities acts. Part of the summary judgment was reversed and remanded, then settled. (Later supplied briefs and guidance to the attorney who obtained a summary judgment upheld on appeal in a subsequent control person case — *Hauser v. Farrell*, 14 F.3d 1338 (9th Cir. 1994).

1989

Glenham v. Palzer, USDC, WD WA (federal court in Seattle) Cause No. C87-849WD. Defended attorney who acted as escrow agent for mortgage broker in racketeering case predicated on federal securities fraud in which about 30 plaintiffs sought damages of \$1.5 million (trebled under RICO to \$4.5 million). Obtained summary judgment dismissal of claims (led briefing for numerous defendants). Settled plaintiffs' appeal for negligible amount, and Ninth Circuit affirmed summary judgment in favor of remaining defendants in 1991 - U.S. App. LEXIS 26873.

Winchester Gold Corporation, et al. v. American Mining Co., et al. (Washington State Court) Spokane County Cause No. 88-202289-0. Defended corporate managing partner and directors and officers of limited partnership comprised of public mining companies in \$2.5 million state court suit in Spokane. Individual clients were founders of Pegasus Gold Company. After a year of litigation, negotiated settlement of claims for about \$800,000. Plaintiffs had alleged securities and management fraud, diversion of partnership funds, usurpation of opportunities and interest in \$90 million transaction for world's largest copper/nickel deposit.

McGrath, et al. v. Sentra Securities Corporation, et al., USDC, WD WA, Cause No. C87-475WD and FPI/Agritech Securities Litigation, (federal court in Seattle, transferred to San Francisco/Hawaii) MDL No. 763. Defended brokerage firm in \$2.5 million federal court lawsuit brought by about 30 plaintiffs alleging federal and state securities, RICO and other statutory and common law liability. This lawsuit was combined with six others into a multidistrict class action alleging \$150 million damages. After our initial discovery requests, threat of a summary judgment motion and brief negotiations, class plaintiffs agreed to dismiss client brokerage firm without prejudice. Class plaintiffs later settled with a number of defendants, and obtained a multimillion dollar judgment against a national accounting firm. Action was never revived against client brokerage firm, which avoided all liability.

1987

Auty, et al. v. Teuscher/Badger Mountain South. Defended attorney in securities/RICO case brought by investor in real estate syndications. Obtained no liability dismissal.

1986

Burris v. Philatelic/Wilkinson, King County Cause No. 85-2-198891. Defended securities broker in suit involving stamp program tax shelter. Obtained no liability dismissal.

1985

Howey v. Michie, Spokane County Cause No. 84-2-00505-4. Defended attorney in suit alleging state securities and other liability brought by investor in plastics business in which attorney was involved. Obtained no liability defense verdict at bench trial in Spokane.

1984

Anderson v. Aurotek, Inc., reported at 774 F.2d 927 (9th Cir. 1986). Prosecuted securities fraud and related claims in gold mining tax shelter against promoters and affiliated professionals. Obtained \$500,000 summary judgment for plaintiffs. Summary judgment was affirmed as to some and reversed as to other defendants on appeal, then settled.

1983

In re WPPSS Securities Litigation, MDL No. 551. Acted as securities litigation strategist on team of Lane Powell attorneys defending Oregon Public Utility Districts in \$2.2 billion class action brought by thousands of public utility bond purchasers. One of the earliest "fraud on the market" cases. Formulated defense that market makers were aware of the allegedly concealed information, which was factored into the market price, thereby refuting bondholders' contention they paid prices artificially inflated by concealment of adverse information. Procured extremely favorable settlement.

Employment, Covenant Not to Compete, Trade Secrets, Unfair Competition, Trademark, Defamation and Other Business Tort Disputes

2014

Edward D. Jones & Co. v. Alan Lawrence, U.S. District Court for the Western District of Washington Case No. 2:14-01406-JLR and Snohomish County Cause No. 14-2-06249-2. Opposed TRO motion in federal court, evoking withdrawal of federal computer fraud and abuse act claim, then obtained dismissal of TRO motion against financial advisors who had transferred to new firm and "announced their new employment" instead of soliciting in violation of employment contract provisions and the trade secrets act. Settled related FINRA arbitration.

2012

Edward D. Jones & Co. v. Mark Anderson, King County Case No. 12-2-34362-4SEA. Successfully defended financial advisor with client base of over \$450 million. Court proceedings were brought by former employer to obtain temporary injunction prior to industry arbitration on damages. Defeated two motions for injunctive relief. Client did not misappropriate trade secret customer contact information or violate employment agreement because client only used customer contact information to "announce" new employment, and not to "solicit" former customers. Settled related FINRA arbitration.

2008-2010

Abigail Investments v. Urquhart v. Abigail, Mainland Resources et al., Case No. 2:09-cv-1174-JCM-GWF (USDC NV). Defended several companies and individuals named in counter-claim by consulting oil and gas engineer for \$5 million in stock and \$6 million in lost profits and supervised tactics of numerous defendants' counsel. After motions to dismiss for lack of personal jurisdiction were granted and further dismissal motions, answers and counterclaims were filed, our side's counterclaim sparked a settlement of a confidential amount roughly one-third of an initial offer we made a year earlier and about one-tenth of our side's estimated defense costs through trial.

Prosecuted several injunction and damages cases against departed securities brokers for violation of customer non-solicit and trade secret violations. Obtained one-year injunction in one case and settled another by setting off damages against reciprocal recruiting claim by competing broker-dealer.

2006-2007

WDWA No. CV-01669MJP and NASD Case No. 06-05017. Obtained federal court TRO extended at expedited arbitration hearing. Represented securities firm enforcing customer non-solicit and non-disclosure covenants against former brokers at competing firm pending completion of publicly announced asset sale. Procured favorable settlement after asset sale consummated.

WDWA No. CV-00262RSM. Teamed with partners to prosecute claims for tortious interference with employment contracts and relationships, breach of fiduciary duties of loyalty and confidentiality, unfair competition and violations of uniform state trade secrets act and federal computer fraud and abuse act. Represented telecommunications firm that sued former office manager, top sales rep and computer security specialist along with competitor that recruited almost entire office by inducing former employees' misconduct. One week into multi-million dollar jury trial, case settled on confidential terms. Not surprisingly, post-settlement poll revealed jury overwhelmingly favored our client at that point.

2005

Aetna v. Compana. Teamed with partner to defend prominent healthcare company in appeal from ICANN proceeding over Internet domain name and prosecuted counter-claims covering six additional domain names and alleging trademark infringement, cyber-squatting, and unfair compensation. Case settled after six domain names covered by counter-claims were returned by opposing party and its appeal was dismissed.

2001-2004

Johnson International v. Bailey Lumber. Defended and settled numerous restrictive covenant cases, including preliminary advice to worldwide lumber distributor and its recruit to avoid TRO and preliminary injunction, and obtain dismissal without damages, based on structured marketing activities allowing highly productive recruit to work without violating employment contract prior to expiration of restrictions.

2000

Morgan Stanley Dean Witter. Defended firm and manager in industry arbitration commenced by former employee-stockbroker alleging \$3 million damages due to ethnic origin discrimination, defamation and wrongful termination/constructive discharge. Procured dismissal of discrimination claims before hearing and no-liability dismissal of remaining claims after hearing, and no forum fees were allocated to firm.

Defended Robbins Research, Inc. and Tony Robbins in trade secrets case in state court in Washington brought by Wade Cook Seminars. Settled in December, 2000.

Confidential case. Prosecuted claims for wrongful termination/constructive discharge whistleblower retaliation, disability discrimination and tortious interference against former employer. Procured multimillion-dollar award including major punitive damage component and attorney fees. Entered highly favorable settlement on appeal and agreed to confidentiality.

First Union. Defended recruiting firm and brokers in three cases brought by recruits' former employer who alleged breach of non-compete and trade secrets misappropriation. One case settled after TRO. Two were contested. Procured dissolution of TRO and denial of preliminary injunction in both contested cases. In one case defended raiding and unfair competition claims for \$1 million actual and \$1 million punitive damages. Award limited to \$240,000 (less than our settlement offer).

1999–2000

Quantum Vision and Preston Christensen. Opposed and defeated TRO and preliminary injunction motions brought by Wade Cook Seminars against former Wade Cook speakers, employees and competing seminar firms. Cook alleged unfair competition, breach of contractual provisions imposing competitive restraints and misappropriation of trade secrets. At related arbitration, procured judgement below our settlement offer at mediation and far below Cook's demand.

1998

Heath & Co. Teamed with partner to secure preliminary injunction in Seattle federal district court for trademark infringement and unfair competition on behalf of national sign company, then obtained favorable damages settlement.

1997-1998

Sealed file. Represented plaintiff acquiring firm in \$10 million federal court lawsuit for securities fraud and breach of stock sale contract warranties. Advised client to allege breach of warranties resulting from prior managers' pattern of sexual harassment in violation of state and federal law. Also advised client to terminate employment agreements of manager-founders, confiscate their laptop computers and analyze deletions. Experts retrieved deleted financial information revealing fraud, and defendants settled for almost entire amount demanded.

1997

Canyons Restaurant. Prosecuted injunction action for trademark infringement and unfair competition on behalf of local client-restauranteur against new restaurant chain in local market. New restaurant chain had national registration rights. Secured preliminary injunction for Puget Sound region, then obtained permanent injunction in settlement. Opposing party, represented by prominent intellectual property firm, changed name for restaurants in this region.

Aramark. Represented seller of business segments in AAA arbitration in which seller claimed breach of contract, misappropriation of trade secrets, unfair competition and fraud, settled case after mitigation efforts eliminated most of the damages.

Various Securities Broker Recruiting Cases. Advised stockbrokers recruited in Alaska, Texas and Florida. Represented Alaska brokers in federal court and NASD emergency proceedings and prosecuted counterclaims for sex discrimination, retaliation and unfair competition. Entered favorable settlement vacating TRO. Defended former brokers recruited by Everen Securities in injunction proceedings involving noncompetition, non-solicitation and trade secrets covenants. TRO vacated and preliminary injunction denied, then case settled.

1996-1998

Lincoln Life. Represented annuities issuer preliminarily enjoining former securities broker/insurance agent (who had no non-competition covenant in agency agreement) from competing unfairly, misleading customers and misappropriating trade secrets. Injunction preserved substantial client group at risk of departing. Defended previously threatened \$5 million counterclaim in arbitration for wrongful termination, sex and sexual preference discrimination, tortious interference and defamation. Obtained dismissal of \$5 million counterclaim and award of \$25,000 for client.

1996

InstruMed. Prosecuted claims for willful trademark infringement and unfair competition through federal court jury trial. Secured verdict of willful infringement and unfair competition and award of damages, costs and attorney fees. Defendant was represented by prominent intellectual property law firm.

1995

First Health Care Products. Teamed with partner defending local client in federal court Lanham Act case in which former distributor alleged false advertising, unfair competition and misappropriation of trade secrets. Advised action by client that eliminated damages, then settled for minimal amount.

1994

Smith & Nephew United, Inc. Defended Florida-based medical products distributor in federal court case brought by demoted regional sales manager who quit and claimed constructive discharge and sex and pregnancy discrimination. Settled case shortly before trial.

Albar, Inc. Served as special master appointed by JAMS judge in dispute over closely held corporation buy-out of minority shareholder/president by majority shareholder. Advised arbitration judge on issues of shareholder, director and officer responsibility, stock valuation, employment agreement, business fraud, trade secrets and other claims. Supervised payment of suppliers and corporate activity during period pending arbitration hearing.

1993

Dean Witter Reynolds Inc. Defended brokerage firm, local branch manager and chief in-house attorney for Western Region who signed licensing form in \$2 million arbitration for constructive discharge, defamation and race discrimination. Obtained no liability dismissal.

1992

InstruMed. Secured injunction for client barring further exploitation of trade secrets by independent contractors who had worked for client to develop electronic tourniquet inflation machine. Client had no written consulting agreement and opposing parties were represented by prominent attorneys in the area.

1990

Holiday Inns. Defended national franchisor against \$10 million damage claims by franchisee for wrongful termination, breach of agreements and related torts. Developed counterclaims for fraud and evidence that plaintiff's losses were caused by personnel defection due to pattern of sexual harassment. Case settled for nothing.

Re Microprobe. Represented individual who was founder, chief scientist and substantial shareholder of molecular biology firm, Microprobe. Client, a former Immunex scientist, sought relief from shareholder, inventions and employment agreements. Worked out mutually satisfactory termination agreement separating out intellectual property of client from that of former business. Worked with trade secret molecular biological theories incomprehensible to anyone other than the scientists involved.

1989

McBride Scientific Services v. Eldec, Inc. Served as sole AAA arbitrator in dispute between local electronics firm and Texas distributor. Discovery involved confidential documents regarding sales figures and other internal business data of parties. Conducted hearing and ruled.

1987

Datec, Inc. v. Hogberg. Served as sole AAA arbitrator in dispute between former manager of computer service and support firm involving common law trade secrets, covenant not to compete and unfair competition claims. Conducted hearing and ruled.

1985

Convertpac. Filed declaratory judgment action to relieve purchaser of paper products business from covenant not to compete and common law trade secrets obligations arising from aborted purchase. Conducted trial and secured relief from covenant well beyond settlement offers.