

Commercial Litigation

For nearly three decades, litigators at Wiley have effectively advocated our clients' interests in federal and state courts across the country. Our bench strength is considerable - more than half of the firm's 240 plus attorneys are seasoned litigators, forming a group that includes three former clerks to the Supreme Court of the United States; more than 40 former clerks to courts of appeals, district and other courts; former prosecutors; former general counsels of federal agencies and senior government officials.

Wiley has unlimited geographic range. We have successfully briefed and argued cases in the Supreme Court of the United States, every federal circuit, federal district courts in nearly every jurisdiction and numerous state supreme and trial courts, as well as before Congress, in the Executive branch and at various agencies. We have also arbitrated, and been arbitrators, in countless disputes between sophisticated parties ranging from contract enforcement and defense, business torts and intellectual property protection, and government contracts matters, to reinsurance arbitration and Bilateral Investment Treaties (BITs).

The areas in which we litigate are as diverse as our practices, from product liability, commercial contracts and employment disputes to international arbitration, white-collar defense and high impact pro bono cases. Each practice litigates cases in its area of expertise while a core team of attorneys engages in commercial and corporate litigation across a broad spectrum of practice areas.

A number of clients are particularly interested in our litigators' expertise and success in matters filed in the United States District Court for the Eastern District of Virginia (known as the "Rocket Docket"). Our group includes multiple former EDVA law clerks and prosecutors, as well as a recent President of the Federal Bar Association chapter for that court.

Goal-Oriented Litigation Focus

Wiley's Commercial Litigation Practice distinguishes itself with an unfaltering commitment toward achieving client goals, whether they are strictly financial, or pegged against other, extrinsic outcomes (e.g., early resolution, avoidance of C-level depositions, protection of competitive advantages or favorable jury verdict). The firm's litigators recognize that success is measured in context and may evolve through time.

Accordingly, our commercial litigators make it a practice to partner with our clients in developing Early Case Assessments in significant matters, which we review in person with our clients typically on a quarterly basis. The written plan includes a description of the client's goals, an assessment of the team's progress toward those goals and an analysis of the budget.

A Record of Success

In courts around the country, our litigators have secured client victories in a wide range of practice areas and specialties ranging from antitrust to tax. Below is sampling of our litigation successes.

- Secured, on behalf of client NTP Inc., a \$612.5 million patent infringement settlement with Research In Motion Ltd. (RIM), the maker of BlackBerry wireless email devices. The settlement, one of the largest ever of its kind, resolved a fiercely contested, high-profile patent case stemming from a jury trial in which the firm successfully argued that RIM's core BlackBerry line of wireless email products, software and services willfully infringed NTP patents.
- Obtained jury verdict in favor of claims adjuster seeking breach of contract and tortious interference with contract damages against a foreign reinsurance company.
- Served as trial counsel for a leading insurance company in the multi-billion dollar coverage case in the Southern District of New York that arose out of the destruction of the World Trade Center.
- Obtained large monetary recovery and release of contract and guaranty for restaurant chain related to a breach of no-build zone lease provisions.
- Represent the National Football League (NFL), National Basketball Association (NBA), Madison Square Garden, and several beverage alcohol manufacturers and distributors in connection with alcohol sales policy and litigation matters.
- Successfully defended a nationwide franchisor in multi-state litigation against its largest franchisees regarding Internet encroachment, non-renewal of the franchise agreements, and valuation of the multi-million dollar franchise businesses for repurchase upon termination.
- Successfully investigated, negotiated, and settled pre-litigation claims against for one of the world's largest corporations that had failed in its efforts to create an international data center that would house all of our client's financial, operational, and communications electronic data, thus leaving exposed worldwide strategic litigations and business operations that depended on the data's security.
- Successfully defended claims against a leading wire and cable company made by its former corporate parent that alleged our client had failed to make 19 years of payments due under a sophisticated tax sharing agreement arising out of the client's spin-out and subsequent § 328(h)(10) election.
- Obtained multi-million dollar recovery for client on claims arising out of a teaming agreement for breach of contract, fraud and misrepresentation, breach of (i) warranties / representations, (ii) the duty of good faith, (iii) the duty of loyalty, and (iv) the duty to give notice, indemnification and contribution, and unjust enrichment arising out of a partnership to bundle and market an electronic archiving system for large users in Europe, the Middle East, and Africa.
- Represented Chapter 11 trustee in litigation arising out of the Vijay K. Taneja bankruptcy case, one of the largest real estate mortgage fraud and Ponzi scheme cases in the Washington, DC area.
- Successfully defended a technology company against claims for breach of teaming agreement, as well as defense of securities, Blue Sky, and related tort claims.

- Successfully represented a provider of electronic manual browsing software in case involving allegations of misappropriation of trade secrets, tortious interference, and related claims.
- Constitutional litigation including First Amendment and Preemption challenges to regulatory initiatives and tort law expansions.
- Successful pursuit of injunctive relief against government agency on behalf of telecommunications provider to continue wireless operations in the Gulf of Mexico
- Represented physicians group in successful effort to overturn U.S. Food and Drug Administration (FDA) Pediatric Rule.
- Successful bench trial on behalf of shareholders in Delaware Chancery actions to expose defendant company's waste and mismanagement related to valuation of large asset.
- Obtained favorable result for client arising out of attempts by former managers to steal government contracts, key personnel, and proprietary information.
- Emergency relief to protect trade secrets and other proprietary information from a departing executive.

Contact Us

Attison L. Barnes III
202.719.7385 | abarnes@wiley.law

Richard W. Smith
202.719.7468 | rwsmith@wiley.law