

# APPELLATE HOT LIST



A SPECIAL REPORT

We've identified 20 firms with outstanding achievements before the U.S. Supreme Court, federal circuit courts and state courts of last resort. The range of matters they handled were vast—from same-sex marriage to big-bank class actions to intellectual property battles. We asked our readers to nominate firms with at least one significant appellate win since January 2013 and with an impressive track record overall. To settle upon the firms listed below, we supplemented that material with our own reporting.

# WINSTON & STRAWN

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## Winston & Strawn

their respective work in intellectual property and antitrust cases.

The approach is clearly paying off. In June 2013, Winston obtained a favorable 9-0 U.S. Supreme Court ruling in *Hillman v Maretta*, a case that set an important precedent on preemption for federal benefits statutes. Partner Steffen Johnson argued

that the Federal Employees' Group Life Insurance Act of 1954 preempted a Virginia law allowing the family of a deceased employee to sue the employee's former spouse over death benefits, despite federal law. The firm represented Judy Maretta, who had been sued by her ex-husband's wife under that loophole.

In another big case, Coberly represented the production company of the film "Effie Gray" when playwright Gregory Murphy pushed forward with allegations of plagiarism by appealing a judgment of noninfringement. The script, written by actress Emma Thompson, was based on the real story of a Victorian-era love tri-

angle. To prove the film's scenes were inspired by real-life events, Coberly read up on the story and found sketches by painter John Everett Millais, one of its protagonists.

Producer Donald Rosenfeld was struck by Coberly's delivery in the U.S. Court of Appeals for the Second Circuit. "It was the work of an orchestra versus a pennywhistle," he said. In May, the appeals court found that the district court had correctly applied the "more discerning" copyright infringement test.

Johnson also represented Mutual Pharmaceutical Co. in a case that set precedent for bringing antitrust cases over patent suits under the Hatch-Waxman Act as well as administrative petitions. A patent infringement suit and a citizen petition to the U.S. Food and Drug Administration brought by Tyco Healthcare had delayed the company's sales of generic versions of the insomnia drug Restoril for more than a year.

The case hinged on complex legal and scientific concepts, but Johnson added the Winston touches. "I love working with a brief to the point that it sings," he said.

—LALITA CLOZEL

Winston & Strawn has built its reputation as a trial lawyer's firm—and that's a solid foundation for its appellate team. The group, which has six partners in Chicago and Washington, relies on the larger network of the firm to feed its appellate docket and to serve as an ear to the ground for new cases, said Linda Coberly, chairwoman and co-founder of the practice.

Often, she said, "we are imbedded with the trial team from the beginning," attending trial or working to direct the case so it will be successful on appeal. Those prominent trial lawyers include Dan Webb, a former U.S. attorney in Illinois, and James Hurst and Jeffrey Kessler, known for