
WilmerHale 2015 in Review

JANUARY 26, 2016

Dear Clients and Friends,

As the new year gathers momentum, we want to pause and thank you for your support over the past 12 months—a period in which we enjoyed challenging legal work, strong client relationships, and a collegial culture grounded in hard work, teamwork and dedication to community. We measure our success by the results we achieve for our clients, and it was a year that yielded many highlights.

In 2015, clients called on us to see around corners and navigate issues critical to their success. We proudly handled innumerable matters outside the public eye, as well as high-profile work that made headlines. Our lawyers represented parties in cases relating to voting rights; election redistricting; marriage equality; policing in the United States' urban centers; and congressional inquiries into Benghazi, the detention of American citizens in Iran and the implementation of the Affordable Care Act. At every turn, clients relied on our insight to advance the dialogue and address complex challenges.

Many of our largest matters of the past 12 months crossed disciplinary boundaries. We played a leading role in major deals, representing Baker Hughes in the worldwide merger review of its proposed \$34.6 billion acquisition by Halliburton, and [Barclays in all transactional and securities regulatory facets of the sale of its US wealth management division to Stifel](#). We won a sweeping jury verdict for Apple in an Eastern District of Texas trial and the unanimous reversal of a \$74 million judgment against Cisco Systems in a case on remand to the Federal Circuit from the US Supreme Court—victories that illustrate why we were selected as a finalist in [The American Lawyer's prestigious IP Litigation Department of the Year competition](#).

At the same time, leading companies and institutions turned to us to handle sensitive cybersecurity probes and compliance issues, manage the delicate balance between business interests and responsible environmental stewardship, and pioneer new strategies to protect their intellectual property through a combination of IP litigation and post-grant proceedings, such as *inter partes* review (IPR) proceedings, before the United States Patent and Trademark Office (USPTO).

A wave of [notable senior laterals](#) came to WilmerHale in 2015, some joining our ranks for the first time and others returning from senior government positions. Their presence reinforced our practice

strengths, as each of our departments made critical contributions:

Litigation/Controversy. It was a busy and exciting year for our litigators, who secured victories at all levels of the justice system. Our Appellate and Supreme Court Litigation Group delivered its 134th US Supreme Court argument, led by Partner Seth Waxman, who marked the 75th Supreme Court argument of his career in December and was [named an AmLaw Litigator of the Year](#). In one of the firm's four Supreme Court wins of the 2014-2015 term, the Court [affirmed the power of Arizona voters to use an independent commission in congressional redistricting](#), against a challenge that the constitution requires that congressional districting be done by elected state legislatures. For Google, we achieved [an important victory](#) when the Second Circuit affirmed that the Google Books search tool and snippet display are “transformative uses” that do not violate copyright law. Our lawyers obtained [a striking win for Ford Motor Company in the largest patent litigation in Ford's history](#), defeating plaintiffs' claims that originally sought more than \$750 million in damages and persuading the jury that the plaintiffs also misappropriated Ford's trade secrets. Our International Arbitration Group ended the year with a string of victories, including a major win in a \$1 billion LCIA arbitration in which the tribunal dismissed claims brought against our client—a provider of administrative services to hedge funds—by a collapsed hedge fund.

Intellectual Property. Our full-service IP Department garnered recognition for its outstanding record before the USPTO's Patent Trial and Appeal Board, where we [lead the industry in having the highest proportion \(87%\) of client claim reviews instituted](#). To date, we have won every IPR and covered business method (CBM) matter that has gone to a final decision, and we are currently handling 30 post-grant matters on appeal to the Federal Circuit. Highlights of our work included [a prominent string of victories for EMC and VMware](#) in several IPRs that challenged patents owned by non-practicing entities (NPEs) targeting technology companies and financial institutions; [a significant IPR win for Becton Dickinson against OneStockDuq](#), an NPE that recently withdrew from an appeal to the Federal Circuit; and a major win for two large financial institutions in CBM proceedings against a notorious NPE. Our robust patent prosecution practice filed more than 2,100 patent applications and secured patents on innovations as varied as Arrowsmith Technologies's antibody buffering methods to regulate drug dosages and SATMAP's contact center behavioral data analytics technology. The practice also advanced the IP portfolios of leading research universities, including Harvard, Northeastern and Boston University. [We expanded our IP presence to Colorado](#) in 2015, managing the global trademark portfolios of Crocs and other prominent companies, and filed more than 2,000 trademark applications in the United States and Europe.

Regulatory and Government Affairs. Our sensitive strategic response capabilities were in high demand as we began our representation of [Baltimore and Chicago in Department of Justice inquiries into policing practices](#). For General Electric, we successfully navigated Committee on Foreign Investment in the United States review of key facets of [the company's more-than-\\$10 billion transaction with French firm Alstom](#), GE's largest-ever industrial acquisition. Our lawyers worked closely with *The Washington Post* and the family of journalist Jason Rezaian in a wide-ranging and ultimately successful effort—involving the UN, the US government and a number of foreign governments—to bring about [Rezaian's release from Iran after 544 days in detention](#). At the same time, our congressional investigations team led the field, representing financial institutions before

the Senate Banking Committee and Permanent Subcommittee on Investigations, and advocating for public figures, companies and institutions in other closely watched congressional inquiries. Leading gold producer Newmont Mining turned to us for guidance in navigating endangered species issues and developing a [landmark conservation plan](#) that could affect 1.8 million acres of public and private land. For General Dynamics, we successfully prosecuted a bid protest at the US Government Accountability Office that ultimately resulted in [our client being awarded a US Navy contract worth \\$49 million](#). We also launched a high-profile effort on behalf of the three largest US international air carriers and a coalition of airline unions to address [the distortive effect on the global aviation market of more than \\$40 billion in state subsidies](#) to Middle Eastern airlines.

Securities. Clients turned to our securities team to represent them in their most sensitive—and often nonpublic—matters. In some instances, we were asked to squelch cases in their early stages. In others, we helped clients manage through crises, many of which involved hot-button issues. We defended clients in pay-for-play cases; handled DOJ, SEC and FINRA investigations relating to high-frequency trading; and represented multinational banks in civil and criminal investigations arising from the failure of the residential mortgage-backed securities market. Our lawyers litigated numerous corporate control and mergers and acquisitions cases, securing a number of victories, including the dismissal of litigation brought by Office Depot shareholders challenging the company's pending merger with our client Staples. At the same time, we litigated against the SEC; represented global banks in criminal tax-related investigations; navigated high-profile FCPA matters, derivative actions and internal investigations; defended leading life sciences and medical device companies in securities suits; and handled tens of FINRA arbitrations arising from the collapse of the Puerto Rican markets. Our regulatory lawyers advised clients in complex deals, including PJT Partners in the successful transaction to combine with the financial advisory segment spun off from The Blackstone Group.

Transactional. Our Transactional Department had a very successful 2015, maintaining its focus on the technology, life sciences and financial services sectors. All of its practices—Bankruptcy and Financial Restructuring, Corporate, Labor and Employment, Real Estate, and Tax—played a critical role. We served as issuer's counsel or underwriters' counsel in nearly 50 public offerings and Rule 144A placements with total proceeds of approximately \$19 billion, including 10 initial public offerings, and represented clients in M&A and technology licensing transactions with a dollar value in excess of \$20 billion. Key deals of the year included [Staples's pending \\$6.3 billion acquisition of Office Depot](#), [WEX's pending \\$1.1 billion acquisition of Electronic Funds Source](#), [Lexicon Pharmaceuticals's worldwide collaboration and licensing agreement with Sanofi](#) to develop a diabetes drug, and IPOs for [Nabriva Therapeutics](#) and [Spark Therapeutics](#). We represented prominent venture capital funds and innovative emerging companies in closing hundreds of private financings raising nearly \$5 billion. Our bankruptcy group represented the Official Committee of Unsecured Creditors in [the successful bankruptcy restructuring of more than \\$1.8 billion of indebtedness and other obligations of the data security company Altegrity](#); obtained [the dismissal of billions of dollars in intentional fraudulent transfer claims](#) brought against the former shareholders of petrochemical company Lyondell, which filed for bankruptcy a year after it engaged in a leveraged merger; and continued to represent secured noteholders in [EFH](#) and [Momentum](#), two of the largest

reorganizations in the United States.

Pro Bono and Community Service. We continued our [innovative community service partnerships](#) with organizations dedicated to supporting those in need, and addressed pro bono matters on issues of vital importance. Working with the NAACP's Legal Defense and Education Fund, we secured [a landmark civil rights victory](#) when the Fifth Circuit affirmed a Southern District of Texas court decision that the state's highly restrictive voter photo identification law had a discriminatory effect on African American and Hispanic voters, in violation of Section 2 of the Voting Rights Act. Our life-changing victory for Dewey Bozella made headlines when [Dutchess County, New York, agreed to pay Mr. Bozella \\$7.5 million to settle his civil rights action](#) seeking damages for his 26-year wrongful conviction and incarceration. In *Reyes Mata v. Lynch*, we achieved [a US Supreme Court victory](#) reversing a lower court ruling that improperly restricted appellate rights for noncitizens seeking review of removal orders on the basis of ineffective assistance of counsel. We filed [an amicus brief on behalf of a coalition of conservative and libertarian thought leaders and former government officials](#) led by Kenneth Mehlman in the historic *Obergefell v. Hodges*, part of our lengthy involvement in the fight for marriage equality. For the Burundian Journalists' Union, a WilmerHale team working with the Media Legal Defence Initiative [won an East African Court of Justice decision upholding the principles of a free press](#). Our lawyers obtained [the President's commutation of the life sentence of a Maryland man](#) convicted of non-violent drug offenses; resolved benefits disputes on behalf of disabled veterans; and filed [a civil lawsuit on behalf of deaf and hearing-impaired Massachusetts prison inmates](#) denied access to adequate healthcare and educational, vocational and rehabilitation programs due to the Department of Correction's failure to provide reliable means of communication.

It is our privilege to work with you as we embrace the challenges and opportunities of the year ahead.



Susan W. Murley
Co-Managing Partner

Robert T. Novick
Co-Managing Partner