
Law360 Names WilmerHale 2011 “Appellate Group of the Year”

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WilmerHale was one of five firms named in *Law360*’s “Appellate Groups of 2011,” a series highlighting firms that handle landmark cases that reshape the legal industry. *Law360* recognized the breadth of WilmerHale’s appellate strength, including its string of high-profile victories in constitutional, white-collar and commercial cases, in areas ranging from copyright, preemption, securities and bankruptcy. This marks the second “Group of the Year” honor from *Law360* this month, as the firm’s [Intellectual Property Litigation Group](#) received the honor in early January.

First among WilmerHale’s landmark victories cited by *Law360* was its win in the closely-watched *Microsoft Corp. v. i4i*, in which the Supreme Court ruled that alleged patent invalidity must be proven by clear and convincing evidence. [Seth Waxman](#) argued the case, which resulted in the successful defense of a \$290 million jury verdict for firm client i4i against challenger Microsoft.

WilmerHale was also recognized for its constitutional win for Michael Turner, who was found in civil contempt by a South Carolina court. After serving a 12-month sentence for not paying child support, which he had no ability to pay, WilmerHale persuaded Supreme Court justices that Turner was constitutionally entitled to counsel before being jailed. The Court ruled that Turner’s incarceration violated due process.

The firm also garnered praise for its victory for client Roche Molecular Systems, Inc., when it faced a challenge of the Federal Circuit decision protecting its rights to certain HIV testing technology. Partner Mark Fleming convinced the high court that the Bayh-Dole Act doesn’t automatically vest patent rights to federal contractors. This ruling marked the first time that the Supreme Court affirmed the Federal Circuit in a patent case despite the urging of the US solicitor general to reverse the lower court’s ruling.

Also catching *Law360*’s attention was the Second Circuit reversal of the conviction of former General Re Corp. CEO Ronald Ferguson, who was implicated along with a former American International Group Inc. executive and others in a \$500 million accounting scandal.

Adding to WilmerHale’s track record of success, the practice won a reversal of the conviction of former McAfee, Inc., CFO Prabhat Goyal for accounting fraud. In a concurring opinion that takes

special exception with the government's pursuit of criminal charges for accounting and financial fraud, Ninth Circuit Chief Judge Kozinski noted: "Mr. Goyal had the benefit of exceptionally fine advocacy on appeal, so he is spared the punishment for a crime he didn't commit. But not everyone is so lucky." The firm's appellate attorneys also helped Novartis Pharmaceuticals Corporation resolve civil and criminal probes into its off-label marketing of six drugs.

The *Law360* article also noted a theme of cooperation, not just among the members of the Appellate group, but within the entire firm.

"Our approach to cases is very collegial and nonexclusive," said Seth Waxman, Partner and Chair of WilmerHale's Appellate and Supreme Court Group. "We staff cases with a substantial diversity of experience and practice. And we often circulate drafts to colleagues to solicit the widest ranges of perspectives and suggestions. Regardless of how much of our time actually gets billed to clients, we strive for the satisfaction that every brief we file, every oral argument we present is the best that possibly could have been done — that even if we'd had another day, another week, we couldn't have done a better job. That's a high bar, to be sure, but much more often than not, we clear it."

"The ability to draw on the remarkable expertise of our colleagues from other areas of this firm is a key part of the service that we as appellate litigators can offer our clients," Fleming said.

"WilmerHale is set up in a way that permits and encourages that consultation."

A committee of editors at *Law360* reviewed more than 550 nominations for its 2011 "Groups of the Year" series before selecting five firms for each practice area.