

APPELLATE HOT LIST



A SPECIAL REPORT

When the stakes were high, the 20 law firms featured in this year's special report delivered—winning big in federal and state appeals courts across the country. They won landmark U.S. Supreme Court decisions on closely watched cases including those over affirmative action, patent infringement and a labor dispute. They also represented some of the most well-known companies in the land, among them Bank of America Corp., Chevron Corp. and the National Football League. These are their stories.

SULLIVAN & CROMWELL

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DIEGO M. RADZINSCHI

Sullivan & Cromwell

Wall said the standard drawn up by the U.S. Court of Appeals for the Federal Circuit wasn't working. It allowed too many companies to infringe with impunity. The challenge was explaining what should take its place. The Sullivan & Cromwell team dug up district court decisions from as early as the 19th

century to show that trial judges could be trusted to limit enhancements to the most serious cases.

Chief Justice John Roberts got it. At argument he told Wall's opponent that over time the exercise of judicial discretion "wears a channel" that sets appropriate boundaries. "And I think the other side's argument is based on that history."

Roberts authored a unanimous opinion four months later.

Wall got help from partner Garrard Beeney; associates who dug up the old

cases; co-counsel at McAndrews Held & Malloy; and the Fish & Richardson team that briefed companion case, *Halo v. Pulse*. He credited Stryker's willingness to go "one level beyond the easy argument" and articulate a new test.

Beeney argued *Cuozzo v. Lee*, a fight over claim construction in Patent Trial and Appeal Board decisions. Sullivan & Cromwell didn't win, but the high court's opinion has spurred the Federal Circuit to rethink other board procedures.

Sullivan also notched a string of appellate wins for financial institutions. Partner Robert Giuffra beat back a \$115 billion action against UBS A.G. stemming from the financial crisis, and partner Rick Pepperman won appeals related to the "London Whale" litigation against JPMorgan Chase & Co.

—SCOTT GRAHAM

The U.S. Supreme Court issued two patent decisions from its 2015 term. Both were argued by Sullivan & Cromwell lawyers.

In *Stryker v. Zimmer*, Jeffrey Wall, co-head of the firm's appellate litigation practice, persuaded a high court that's usually squeamish about patent rights to give district judges more discretion over enhanced damages for willful infringement. The decision put \$140 million back in play for Sullivan client Stryker Corp.