



Appellate Advocacy

DLA Piper's Appellate Advocacy practice is one of the nation's premier practices and comprises seasoned appellate lawyers with experience handling all aspects of state and federal appeals, including the US Supreme Court.

Our appellate advocacy team practices with successes in the most notable appellate courts in the United States, including the United States Supreme Court, all 13 federal Courts of Appeals and a host of state appellate courts. Clients benefit from our highly skilled team of appellate lawyers, many with prior experience as former clerks for the United States Supreme Court, United States Courts of Appeals, and state appellate courts.

We provide aggressive, creative and practical representation for our clients who look to us to preserve their victories or rectify their losses on appeal in complex areas of litigation such as product liability, complex commercial disputes, multi-district litigation, administrative law, white collar defense, environmental litigation, antitrust and intellectual property. Our appellate lawyers also work with trial lawyers to provide efficient, thorough and creative motions practice support to the team that will try the case. In that setting, our appellate lawyers frequently are embedded with the trial team and help frame the issues for appeal to create the most advantageous record. This assistance can be particularly beneficial in complex litigation. When our appellate lawyers are not counsel of record, we have been called upon to use our creativity to assist with mock arguments, review draft briefs and write amicus curiae briefs for clients on important issues in various courts. Our advocacy in the latter role can assist the court by shedding light on the legal impact of the court's decision beyond the parties directly involved.

DLA Piper's Appellate Advocacy practice is committed to understanding our clients' needs, protecting our clients and prevailing in their litigation.

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- Litigation, Arbitration and Investigations

Publications

***Dobbs v. Jackson Women's Health* : Implications for business of a post-Roe landscape**

23 June 2022

Dobbs raises a number of important questions for companies and entities.

***Javier v. Assurance IQ, LLC et al.* : Ninth Circuit issues ruling in session-replay case**

14 June 2022

The ruling leaves open a host of questions about the viability of session-replay cases under state wiretapping statutes.

***Jarkesy v SEC*: Fifth Circuit vacates SEC decision – latest case questioning constitutionality of the ALJ process**

1 June 2022

This case and others now moving through the courts tee up some important issues for those facing SEC administrative enforcement proceedings.

Texas social media law reinstated by Fifth Circuit

20 May 2022

The plaintiffs have appealed directly to the Supreme Court for an emergency stay.

California court approves enforcement of federal forum selection provision for Securities Act claims: Practical implications of *Wong v. Restoration Robotics*

12 May 2022

Even if Delaware (or another state) allows its domestic corporations to adopt federal forum provisions, it will be up to courts in other states to enforce those provisions.

***Berroteran v. Superior Court* is good news for corporate defendants in California**

29 March 2022

The Court, recognizes the practical reality that, absent an agreement, a defendant may strategically choose not to examine its own witness at deposition.

Tenth Circuit ruling is victory for FISA Section 702 surveillance authority

3 January 2022

The Tenth Circuit now joins the Ninth and Second Circuits in holding that warrantless 702 surveillance of communications involving a person in the US does not violate the Fourth Amendment.

Food and Beverage News and Trends

2 December 2021

FOOD AND BEVERAGE NEWS AND TRENDS

Suspend imports of fresh beef from Brazil, US cattle group says; plant-based producers take new approach in suit over Oklahoma labeling law; plus salt, soda, and news from Hawaii

Food and Beverage News and Trends

12 November 2021

FOOD AND BEVERAGE NEWS AND TRENDS

Avoid foods with glittery garnishes, CDC says; USDA considers whether Salmonella should be declared an adulterant; soaring energy costs this year may mean widespread food shortages next year.

Aybar v. Aybar: New York Court of Appeals finds registering to do business in the state does not mean consent to general jurisdiction

12 October 2021

Consent by registration was the sole issue before the New York Court of Appeals in this case.

Georgia Supreme Court: Consent by registration a valid way to exercise personal jurisdiction over out-of-state corporations

5 October 2021

The court deduced that a corporation authorized to do business in Georgia must be subject to general personal jurisdiction in the state.

Food and Beverage News and Trends

17 September 2021

FOOD AND BEVERAGE NEWS AND TRENDS

FDA approves a new blue; senators seek COOL labels; pet food, Pop Tarts, Parnells.

Supreme Court Corner

September 2021

The Court chose to enhance the Director's power to review PTAB decisions directly.

The Pharmaceutical Corner

September 2021

Teva v. Amicus is the first lawsuit to test the reach of the CREATES Act. Expect more.

US v. Bescond addresses "fugitive disentitlement": Potential game changer for foreign-based defendants facing US charges

30 August 2021

The Second Circuit found that a French citizen who had been in France throughout the period of the alleged crimes was not a "fugitive" and that the district court abused its discretion by applying the fugitive disentitlement doctrine.

Food and Beverage News and Trends

26 August 2021

FOOD AND BEVERAGE NEWS AND TRENDS

Vegan butter company prevails; California olive oil producers reach agreement on labeling; key part of Kansas ag-gag bill struck down.

Food and Beverage News and Trends

12 August 2021

FOOD AND BEVERAGE NEWS AND TRENDS

White House says order on USDA labeling rules is coming soon; appeals court rejects challenge to California's Prop 12 and its rules for housing farm animals; no vax, no service.

Food and Beverage News and Trends

23 July 2021

FOOD AND BEVERAGE NEWS AND TRENDS

FDA reassures public on the safety of PFAS in the food supply; trial of former Blue Bell CEO is postponed.

Food and Beverage News and Trends

9 July 2021

FOOD AND BEVERAGE NEWS AND TRENDS

FDA sets 2022 deadlines for sodium reduction goals and milk alternative labeling; restaurant grant program officially closes.

SCOTUS upholds the ACA: Next steps for employers

8 July 2021

All ACA provisions regarding the employer mandate for large employers continue in effect; in addition, ACA patient protection provisions have been expanded by the Consolidated Appropriations Act, 2021.

"No concrete harm, no standing": Supreme Court issues major Article III standing opinion in *TransUnion v. Ramirez*

29 June 2021

Given the proliferation of class-actions alleging purely procedural statutory violations, the ruling is likely to have far-reaching consequences.

Supreme Court Corner

June 2021

The issue at hand in *Unicolors v. H&M* turns on a question of inaccuracies in the copyright registration certificate.

The Pharmaceutical Corner

June 2021

We look at the underlying decision in *Immunex v. Sandoz* and the potential implications on pharma patent licensing strategies.

United States v. Arthrex: Where does the Supreme Court's decision leave the PTAB?

23 June 2021

If the APJs' appointment is unconstitutional, what is the appropriate remedy?

Supreme Court significantly limits the scope of the Computer Fraud and Abuse Act

4 June 2021

The decision will largely gut the CFAA as a tool for addressing insider data theft.

Court holds NYDFS "best interest" rule is unconstitutionally vague

6 May 2021

The Appellate Division appears to have found that the scope of what the NYDFS defined as a recommendation, and therefore actionable conduct, was so broad as to encompass all statements by a producer.

Second Circuit sets standing threshold for data-breach class actions

30 April 2021

The court ruled there are limits to the "increased-risk" theory of standing.

US Supreme Court clarifies scope of specific personal jurisdiction over corporations: *Ford Motor Co. v. Montana Eighth Judicial District*

12 April 2021

The decision resolves confusion in the lower courts.

Supreme Court Corner

30 March 2021

Numerous amici in *American Axle* urge the Supreme Court to take the case; update on *USPTO v. Booking.com*.

The Pharmaceutical Corner

30 March 2021

The opinion may render functional claiming more difficult, but functional claims that follow its guidance may still have an important role to play in pharmaceutical patents.

US Supreme Court to decide whether 28 U.S.C. § 1782 includes international arbitration

24 March 2021

The intervention is likely to provide much-needed clarity.

Eligibility guidance in the wake of *Alice*: Clarity at the examiner stage, uncertainty in the Federal Circuit

22 December 2020

Competing approaches to patent-eligible subject matter at the Federal Circuit and the USPTO.

Substantial similarity in copyright: It matters where you sue

22 December 2020

Two circuits do not always interpret copyright law the same way.

Argentina: In a unanimous decision over the appointment of three judges, the Supreme Court asserts its powers and its independence

5 October 2020

A clear indication of the Argentine judiciary's willingness to exercise its constitutional prerogatives and to confront the executive and the legislative branches when necessary to preserve its independence.

Supreme Court Corner

30 September 2020

A quick look at two cases - *USPTO v. Booking.com* and *American Axle & Manufacturing v. Neapco Holdings*.

Supreme Court finds the restriction on removal of the Consumer Financial Protection Bureau's single director unconstitutional, but leaves the bureau operational

7 July 2020

The decision also throws into question the investigative and enforcement actions of the CFPB to date.

NEWS

DLA Piper achieves appellate victory for AMN Healthcare in antitrust lawsuit

24 August 2021

DLA Piper recently won a significant appellate victory on behalf of AMN Healthcare defeating a lawsuit seeking more than US\$50 million in damages that alleged violations of federal and state antitrust laws.

Retired Judge Andrew Peck appointed as Judicial Emeritus member of Sedona Conference Working Group 1 Steering Committee

5 January 2021

DLA Piper is pleased to announce that former United States Magistrate Judge Andrew J. Peck has been appointed by The Sedona Conference as a Judicial Emeritus member of the Steering Committee of Working Group 1 (WG1), effective January 2021.

