

A SPECIAL REPORT

APPELLATE HOT LIST

We are proud to present the 2020 Appellate Hot List honorees. These firms tackled novel issues and undoubtedly faced unprecedented challenges over the past year, boasting high-profile and high-stakes wins in the nation's highest appellate courts across a number of practice areas—from Constitutional rights to immigration law to pharmaceutical and intellectual property disputes. Here, these winning firm leaders share their appellate successes, insights and lessons learned along the way. —Sarah Tincher, managing editor

LATHAM & WATKINS

▪ **TELL US ABOUT YOUR TOP U.S. SUPREME COURT OR FEDERAL APPEALS COURT VICTORY OVER THE PAST YEAR AND HOW YOU AND YOUR TEAM ACHIEVED THE WIN.** *Merck & Co. v. U.S. Department of Health and Human Services:* We secured a unanimous D.C. Circuit affirmance of a victory we achieved in the D.C. District Court for Merck, Amgen and Eli Lilly, invalidating an unprecedented federal rule that would have required every pharmaceutical manufacturer to include their wholesale list prices when advertising their drugs to consumers on television. In an opinion that set an important precedent regarding the scope of delegated agency powers, the D.C. Circuit agreed with us that the rule exceeded HHS's statutory authority, noting that the agency may not "move the goalposts to wherever [it] kicks the ball."

▪ **WHAT WAS YOUR FIRM'S KEY TO APPELLATE SUCCESS OVER THE PAST YEAR?** Making sure our Wi-Fi systems were in perfect working condition. Honestly, we continued working hand-in-hand with our trial teams to persuasively frame and preserve issues for appeal, and approach every appeal with creativity, tenacity and total commitment to our clients.

▪ **WHAT IS THE MOST SATISFYING ELEMENT OF APPELLATE PRACTICE, IN YOUR OPINION?** For me, it's that light bulb moment when you come up with a new argument or way of framing the issues, and you know you've got a winner.

▪ **WHAT'S THE MOST VALUABLE LESSON YOU LEARNED AS A YOUNG**



Richard Bress

LAWYER? 1) The best argument may well be outside the box.

2) Keep your brief and oral argument simple, but still engaging.

3) Safeguard your credibility; trust lost is rarely regained.

Submitted by Richard Bress, a partner at Latham & Watkins.