

APPELLATE HOT LIST

A SPECIAL REPORT

This year's U.S. Supreme Court term lacks the high-stakes drama of last year's row over the Affordable Care Act, which seemed to attract briefs from every appellate shop around. There's still plenty to get excited about, however, as demonstrated by the cases we highlight in *The National Law Journal's* Appellate Hot List. We've identified 20 firms doing killer appellate work before the Supreme Court, federal circuit courts of appeal and state courts of last resort. We asked our readers to nominate firms with at least one significant appellate win between May 2012 and May 2013 and that had an impressive track record overall. We supplemented this material with our own reporting to settle on the firms listed below.

LATHAM & WATKINS LLP

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DIEGO M. RADZINSKI

GREGORY GARRE

Latham & Watkins

The appellate group at Latham & Watkins undertook high-stakes, high-profile appeals across a broad swath of law in state and federal courts. “One of the things that has been most satisfying is the diversity in the types of cases and issues we’ve been handling both at the Supreme Court and circuit court levels,” said Gregory Garre, a former solicitor general who leads the firm’s appellate practice.

The firm’s core appellate group includes Garre, partners Richard Bress, J. Scott Ballenger and Lori Alvino

McGill, and of counsel Maureen Mahoney. Last fall, they helped prep Garre for four U.S. Supreme Court arguments. Two involved the constitutionality of warrantless searches by drug-sniffing dogs (Garre, representing Florida in both, won one, lost the other). The remaining two are pending and include the marquee challenge to the University of Texas’ use of race in its admissions policy (Garre represents the university) and a potentially major employment law case—*Vance v. Ball State University* (Garre’s client is the university)—about who is a “supervisor” for vicarious liability purposes under Title VII.

While juggling that heavy Supreme Court caseload, the appellate group scored significant victories in the lower appellate courts. Latham, representing Ford Motor Co., persuaded the South Carolina Supreme Court that Federal Motor Vehicle Safety Standard 205, which authorizes manufacturers to use either tempered or laminated glass in side windows based on their decision as to which glass is safer for each vehicle, pre-empts state law tort suits alleging that the use of tempered glass was inappropriate.

In a case closely watched by the nation’s major utilities, the D.C. Circuit vacated the Environmental

Protection Agency’s Cross-State Air Pollution Rule, holding that the agency violated the Clean Air Act by requiring states to reduce pollution by more than necessary and by denying states the opportunity to set up their own implementation plans. Garre and McGill, along with partner Claudia O’Brien, represented lead petitioner EME Homer City Generation.

Bress successfully argued before the D.C. Circuit on behalf of two intervenors in support of the Federal Communications Commission’s data-roaming rules challenged by Verizon Wireless. And, in a major victory for a substantial number of veterans, the Federal Circuit held that the Veterans Administration acted unlawfully in 2011 when it eliminated certain procedural and appellate rights for veterans appearing before the Board of Veterans Appeals. Associate Roman Martinez argued the pro bono case.

—MARCIA COYLE