

## supreme court of the united states

Advocating for our sophisticated client base in the nation's highest court

The Supreme Court operates unlike any other court, addressing cases of broad legal significance that often establish binding precedents with far-reaching implications. Success in this forum requires not only a mastery of legal principles but also a deep understanding of the court's unique procedures, jurisprudential trends, and decision-making dynamics.

Thompson Coburn's attorneys have a proven track record of success advocating for clients on issues of national significance before the Supreme Court of the United States. We have been at the forefront of landmark decisions in the Rehnquist and Roberts Courts.

Our work spans critical areas such as:

- Foreign commerce regulation and its impact on global trade.
- Protecting intellectual property and innovation.
- Navigating federal-state conflicts in commerce regulation.
- Interpreting the scope and limits of the bankruptcy code.
- Defining and defending sovereign immunity principles.

Our team's experience in these areas enables us to deliver strategic and effective representation at the highest levels of the legal system.

### experience

#### Major Supreme Court Cases

- *Franchise Tax Board v. Hyatt*, Docket No. 14-1175 (2015): This case asked the Court to overrule its 1979 sovereign immunity decision, *Nevada v. Hall*, holding that 11th Amendment state sovereign immunity does not preclude a private suit against a state filed in the courts of another state. Because of the similarity of the issues, the court's decision in *Fed. Mar. Comm'n v. S.C. State Ports Authority*, argued by Thompson Coburn partner Warren Dean, figures prominently in the resolution of the question whether *Hall* should be overruled. Dean, with support from partners Jon Benner and Katie Kraft, filed an amicus brief in *Hyatt* on behalf of the South Carolina Ports Authority, in support of reversal of *Hall*. The brief addressed the importance of sovereign immunity to investment in transportation infrastructure like ports.
- *Northwest v. Ginsberg*, Docket No. 12-462 (2014): On behalf of the International Air Transport Association (IATA), we filed an amicus brief in support of Northwest. The case involved federal pre-emption of implied contractual covenants under state law. Siding with petitioner Northwest and the amici supporting petitioner, the Court unanimously reversed the judgment of the Ninth Circuit, finding that the federal law pre-empted a state law claim for breach of an implied covenant that seeks to enlarge the contractual obligations voluntarily adopted by the contracting parties.
- *Bowman v. Monsanto Co.*, Docket No. 11-796 (2013): This case concerned patent rights after the first sale of self-replicating technology, which had broad implications for innovation across a broad range of industries. We won summary judgment for Monsanto in the U.S. District Court for the Southern District of Indiana, which concluded Bowman had no right to make copies of Monsanto's patented technology. The U.S. Court of Appeals

for the Federal Circuit upheld that; the Supreme Court agreed to review the case and ruled unanimously for Monsanto, affirming the Federal Circuit's ruling.

- *Sawyer v. Iqbal*, 556 U.S. 1256 (2009) decided by *Ashcroft v. Iqbal*, 556 U.S. 662 (2009): Represented a former director of the Federal Bureau of Prisons who had been sued, along with other federal officials, by a Pakistani citizen alleging tortious conduct arising from his detention after the 9/11 attacks. The decisional question addressed the degree of specificity that a civil complaint must achieve to survive a motion to dismiss filed under the Federal Rules of Civil Procedure. The Court held that a complaint must be facially non-conclusory, i.e., based on allegations of fact that are believable under the circumstances, to survive motion to dismiss.
- *Exxon Shipping Co. v. Baker*, 554 U.S. 471 (2008): Represented amici international shipowner groups in supporting a challenge to the award of punitive damages arising from the EXXON VALDEZ oil spill that vastly exceeded actual damages. The Court held that punitive damages in maritime cases could not exceed amounts awarded as actual damages.
- *District of Columbia v. Heller*, 554 U.S. 570 (2008): In support of the prevailing party in this landmark Second Amendment gun case, Thompson Coburn partners prepared an amicus brief that was cited by the U.S. Supreme Court in the related case of *McDonald v. City of Chicago*, 561 U.S. 742 (2010).
- *Norfolk Southern Railway Co. v. Sorrell*, 549 U.S. 158 (2007): The Court held that Missouri courts' interpretation and application of a federal statute was contrary to federal law, as interpreted by federal courts. The Court's decision effected a change in Missouri mandatory jury instructions that had been in force for decades.
- *Federal Maritime Commission v. South Carolina State Ports Authority*, 535 U.S. 743 (2002): In this landmark Constitutional case, the Court held that states and their instrumentalities are entitled to sovereign immunity in proceedings before federal administrative tribunals. The decision, one of the most significant in what may be the oldest line of Supreme Court cases, affirms the dual sovereignty inherent in our federal system of government.
- *Intertanko v. Locke*, 529 U.S. 89 (2000): The Court held that federal law preempts state of Washington environmental and safety regulations related to vessel operations in state waters.
- *El Al v. Tseng*, 525 U.S. 155 (1999): Successfully represented the U.S. airline industry as amicus and worked with the Solicitor General to argue that the international treaty rules of the Warsaw Convention exclusively occupied the field relating to the compensation of airline passengers and shippers.

## professionals

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