

Ganzfried Law

Jerrold J. Ganzfried



Representative Cases

Cases argued in the United States Supreme Court

Inwood Laboratories, Inc. v. Ives Laboratories, Inc., 456 U.S. 844 (trademark dispute under Lanham Act; generic drugs).

United States v. Generix Drug Corp., 460 U.S. 453 (premarketing approval requirements for generic drugs under the Federal Food, Drug and Cosmetic Act).

Bowsher v. Merck & Co., 460 U.S. 453 (scope of Comptroller General's access to records of government contractors).

Jefferson Parish Hospital District No. 2 v. Hyde, 466 U.S. 2 (antitrust law: tying arrangements under the Sherman Act; hospital's exclusive contract).

Aluminum Company of America v. Central Lincoln Peoples' Utility District, 467 U.S. 380 (energy and administrative law: allocation of power by Bonneville Power Administration to industrial customers).

Mabry v. Johnson, 467 U.S. 504 (criminal and constitutional law: enforceability of plea agreements).

Garcia v. United States, 469 U.S. 70 (criminal law: statutory construction of scope of federal prohibition of assault and robbery of custodian of government property).

Marek v. Chesny, 473 U.S. 1 (civil procedure: recovery of attorneys' fees after Rule 68 offer of judgment).

Mitsubishi Motors Corp. v. Soler Chrysler-Plymouth, Inc., 473 U.S. 614 (antitrust and international law: arbitrability of Sherman Act claim arising out of international commercial transaction).

Maine v. Taylor, 477 U.S. 131 (constitutionality under Commerce Clause of state criminal environmental statute).

Atkins v. Rivera, 477 U.S. 154 (administrative law: statutory construction and validity of regulations for determining eligibility for Medicaid).

O'Connor v. United States, 479 U.S. 27 (taxation, international law and treaty interpretation: whether Panama Canal Treaty exempts from United States taxation the salaries paid to United States citizens by the Panama Canal Commission).

City of Pleasant Grove v. United States, 479 U.S. 462 (civil rights: application of §5 of the Voting Rights Act to annexation of undeveloped area as part of racially-biased annexation policy).

NLRB v. International Brotherhood of Electrical Workers, Local 340, 481 U.S. 573 (labor law: union discipline of supervisor-members who work for nonunion employers).

Traynor v. Turnage, 485 U.S. 535 (administrative law: jurisdictional basis for judicial review of agency determination; validity under Rehabilitation Act of agency regulation on alcoholism).

Cases argued in United States Courts of Appeals and State Appellate Courts

Bainbridge St. Elmo Bethesda Apartments, LLC v. White Flint Express Realty Group Limited Partnership, LLLP (Maryland Court of Appeals 2016) (contractual dispute over indemnification for attorneys' fees in first-party litigation) (pending).

Bainbridge St. Elmo Bethesda Apartments, LLC v. White Flint Express Realty Group Limited Partnership, LLLP (Maryland Court of Special Appeals, April 5, 2016) (indemnification provision and award of attorneys' fees).

Jemal's Lazriv Water, LLC v. United States (Fed. Cir., Sept. 2014) (government contract law; tax adjustment clause).

Dormitory Authority of the State of New York v. Continental Casualty Co., ___ F.3d ___, 2014 WL 2808073 (2d Cir. 2014) (successful affirmance of declaratory judgment resolving breach of contract/ insurance coverage dispute).

Clark, et al. v. United States, 656 F.3d 1317 (Fed. Cir. 2011) (claims by members of National Guard to be compensated for completing required educational training course).

H&R Block Eastern Enterprises, Inc. v. Raskin, 591 F.3d 718 (4th Cir. 2010) (federal preemption of Maryland statute regulating credit services business).

American Association of Persons With Disabilities v. Holland, 605 F.3d 1124 (11th Cir. May 11, 2010); 647 F.3d 1093 (11th Cir. on petition for rehearing, July 27, 2011) (claims under Americans With Disabilities Act involving access to voting machines).

Provincial Government of Marinduque v. Placer Dome, Inc., 582 F.3d 1083 (9th Cir. 2009) (jurisdictional issues, international comity and standards for forum non conveniens dismissal of suit brought by non-U.S. provincial government).

Backfire 2000 v. United States, 273 Fed. Appx. 661 (9th Cir. April 14, 2008) (claims under Federal Tort Claims Act arising from firefighting activities).

Fifth Third Bank v. United States, 518 F.3d 1368 (Fed. Cir. 2008) (prevailed on appeal upholding awards of damages against government for breach of contract).

Arnett v. Combs, 508 F.3d 1134 (5th Cir. 2007) (constitutional and jurisdictional issues arising in challenge to Texas unclaimed property statute).

Westbard Apartments v. Westwood Investors, 181 Md. App. 37 (Maryland Court of Special Appeals 2007) (successfully obtained reversal in case involving dispute over real estate transaction involving property valued at more than \$100 million).

Fifth Third Bank v. United States, 402 F.3d 1221 (Fed. Cir. 2005) (government contracts: successfully obtained reversal of adverse judgment in Winstar-type case involving government's breach of contract regarding accounting treatment of supervisory goodwill; opinion established government's liability for actions during the savings and loan crisis).

In re Digital Island Securities Litigation, 357 F.3d 322 (3d Cir. 2004) (prevailed on appeal in securities class action case, upholding dismissal of all claims with prejudice).

Allapattah Services, Inc. v. Exxon, 333 F.3d 1248 (11th Cir. 2003) (class action claims alleging breach of contract; federal court jurisdictional standards for class actions), 362 F.3d 739, on petition for rehearing en banc (11th Cir. 2004).

Cook Inc. v. Boston Scientific Corp., 333 F.3d 737 (7th Cir. 2003) (prevailed on appeal from issuance of injunction in patent licensing dispute involving medical devices).

Doe v. Unocal, 395 F.3d 932 (9th Cir. 2002) (claims under Alien Tort Statute alleging violations of international law).

DHL Corp. v. Commissioner of Internal Revenue, 285 F.3d 1210 (9th Cir. 2002) (successfully obtained reversal of tax liability exceeding \$100 million in case involving regulations for accounting of transfer pricing for intellectual property).

Litton Industries v. Honeywell, (9th Cir.) (antitrust law: Sherman Act section 2 monopolization case) (case settled).

Mellon Bank N.A. v. Deluxe Data Systems, 176 F.3d 472 (3d Cir. 1999) (appeal from jury verdict in breach of contract, breach of fiduciary duty case involving government contract).

Gonzalez v. Caterpillar, 114 F.3d 55 (11th Cir.) (prevailed on appeal in antitrust case involving claims under Sherman Act sections 1 and 2).

Ronsini v. Garlock, 256 A.D.2d 250, 683 N.Y.S.2d 39 (N.Y. App. Div., 1st Dep't 1998) (appeal from jury verdict in asbestos personal injury case involving government contractor defense).

Porter Hayden Co. v. Brannen, No. 190, Sept. Term 1997 (Maryland Court of Special Appeals), cert. denied, 349 Md. 497 (1998) (successfully obtained reversal of judgment in asbestos products liability case).

Weight Watchers International, Inc. v. Federal Trade Commission (9th Cir.) (administrative law: appeal from dismissal of complaint for judicial review of agency denial of rulemaking petition) (case settled).

Systemcare, Inc. v. Wang Laboratories, Inc., 117 F.3d 1137 (10th Cir. 1997) (en banc) (concerted activity element of antitrust tying claim).

Allied Machinery Service, Inc. v. Caterpillar, Inc., 114 F.3d 1202 (11th Cir. 1997) (federal court abstention issues in context of antitrust claims).

AT&T v. United Computer Systems, 100 F.3d 961 (9th Cir. 1996) (successfully upheld order compelling arbitration in computer industry dispute).

AT&T v. United Computer Systems, 98 F.3d 1206 (9th Cir. 1996) (successfully obtained additional prejudgment interest on judgment confirming arbitration award).

Systemcare, Inc. v. Wang Laboratories, Inc., 85 F.3d 465 (10th Cir. 1996) (antitrust law: claims of alleged tying arrangement involving services for computer hardware and software).

United States v. Marine Shale Processors, 81 F.3d 1329 (5th Cir. 1996) (environmental law: claims under RCRA and CERCLA).

Marine Shale Processors, Inc. v. EPA, 81 F.3d 1371 (5th Cir. 1996) (environmental and administrative law: appeal from agency decision denying application for operating permit).

United States v. Marine Shale Processors, 81 F.3d 1361 (5th Cir. 1996) (environmental law: claims under Clean Water Act, Clean Air Act, and RCRA).

Weight Watchers International, Inc. v. Federal Trade Commission, 47 F.3d 990 (9th Cir. 1995) (administrative law: successfully obtained judicial review of agency denial of rulemaking petition).

AT&T v. United Computer Systems, 5 F.3d 534, 1993 WL 360778, **7 (9th Cir. 1993) (appellate reinstatement of previously-vacated arbitration award and recovery exceeding \$20 million).

Geophysical Systems Corp. v. Raytheon Corp. and Seismograph Service Corp., 988 F.2d 119 (9th Cir. 1993) (contractual dispute, RICO, covenant of good faith and fair dealing, unfair competition).

Danielsen v. Burnside-Ott Aviation Training Center, Inc., 941 F.2d 1220 (D.C. Cir. 1991) (affirmed dismissal of civil RICO complaint against government contractor).

Dana Corp. v. Blue Cross & Blue Shield Mutual of Northern Ohio, 900 F.2d 882 (6th Cir. 1990) (obtained reversal of decision dismissing civil RICO complaint).

Royal Crown Cola Co. v. The Coca-Cola Co., 887 F.2d 1480 (11th Cir. 1989) (obtained reversal of award of attorneys' fees in antitrust litigation).

In re Paradyne Corp., 849 F.2d 606 (4th Cir. 1988) (civil procedure: mandamus).

Cases Briefed in the United States Supreme Court

McDonnell v. United States, 579 U.S. ____ (June 27, 2016) (overturned federal corruption prosecution of former Governor of Virginia).

Husky International Electronics, Inc. v. Ritz, 578 U.S. ____ (May 16, 2016) (bankruptcy law: scope of statutory “actual fraud” exception to dischargeability of debt) (amicus brief for Bankruptcy Law Professors).

Luis v. United States, 578 U.S. ____ (March 30, 2016) (Constitutional law: right to counsel of choice; successful challenge to pretrial restraining order freezing untainted assets needed by accused to retain counsel; Fifth and Sixth Amendment issues) (amicus brief for American Bar Association).

Air Wisconsin Airlines Corp. v. Hoeper, 571 U.S. 855 (January 27, 2014) (Aviation Transportation and Security Act: airline immunity from defamation liability for report to TSA of potential security threat) (amicus).

Heimeshoff v. Hartford Life & Accident Insurance Co., 571 U.S. ____ (December 16, 2013) (calculation of statute of limitations for claims challenging adverse benefits decisions under ERISA plan) (amicus).

Kaley v. United States, 571 U.S. ____, 134 S. Ct. 1090 (decided February 25, 2014) (Sixth Amendment and Due Process issues arising from pretrial order freezing assets needed by criminal defendants to retain counsel of choice) (amicus brief for American Bar Association).

Oxford Health Plans LLC v. Sutter, 569 U.S. ____ (2013) (standards for permitting arbitration to proceed on a class-wide basis) (amicus).

American Express Co. v. Italian Colors Restaurant, 570 U.S. ____ (2013) (enforceability of arbitration agreement with express class action waiver) (amicus).

Los Angeles County Flood Control District v. Natural Resources Defense Council, 568 U.S. ____ (2013) (environmental law: scope of federal permit requirements under Clean Water Act) (amicus).

McDonald v. City of Chicago, 561 U.S. 325 (2010) (Second Amendment) (amicus).

Monsanto Co. v. Geertson Seed Farms, 561 U.S. 139 (2010) (standards for issuance of injunctions to block agency decision to deregulate genetically engineered plants under Plant Protection Act) (amicus).

Stolt-Nielsen S.A. v. AnimalFeeds Int’l Corp., 559 U.S. 662 (2010) (permissibility of class action arbitration where contract is silent) (amicus).

Stoneridge Investment Partners v. Scientific Atlanta, 552 U.S. 148 (2008) (securities law: rejection of “scheme liability” theory that would have extended liability in private securities actions) (amicus).

Metlife v. Glenn, 554 U.S. 105 (2008) (ERISA law: standards for reviewing disability insurance coverage by plan administrators who are also insurers) (amicus).

MedImmune, Inc. v. Genentech, Inc., 549 U.S. 118 (2007) (standards for patent licensee seeking declaratory judgment of patent's validity) (amicus).

Moseley v. V Secret Catalogue, Inc., 537 U.S. 418 (2003) (standards for claim of trademark dilution) (amicus).

Warner-Jenkinson Co. v. Hilton Davis Chemical Co., 520 U.S. 17 (1997) (intellectual property: patent infringement under the doctrine of equivalents) (amicus).

United States v. Winstar Corp., 518 U.S. 839 (1996) (bank regulation, government contracts: claim against United States for breach of contract relating to supervisory goodwill of thrift institutions under FIRREA) (amicus).

Kimberlin v. Quinlan, 515 U.S. 321 (1995) (Bivens action against federal officials).

City of Edmonds v. Oxford House, Inc., 514 U.S. 725 (1995) (application of Fair Housing Act to city zoning regulations) (amicus).

Bowen v. Kizer, 485 U.S. 386 (1988) (administrative law: status of agency manual provision in establishing income eligibility levels for Medicaid program; interpretation of Deficit Reduction Act of 1984).

Basic, Inc. v. Levinson, 485 U.S. 224 (1988) (securities law: materiality of merger negotiations under Rule 10b-5; presumption of reliance in case alleging fraud on the market).

Bowen v. Gilliard, 483 U.S. 587 (1987) (constitutionality of standard filing unit provision in AFDC program).

Cargill, Inc. v. Monfort of Colorado, Inc., 479 U.S. 104 (1986) (antitrust law: standing to enjoin an acquisition by a competitor).

Baker v. General Motors, 478 U.S. 621 (1986) (labor law: whether federal law preempts state statutes disallowing unemployment benefits to employees who financed the labor dispute that caused their unemployment).

Square D Co. v. Niagara Frontier Tariff Bureau, Inc., 476 U.S. 409 (1986) (scope of implied immunity from antitrust treble damages action for rates filed with the Interstate Commerce Commission).

Thomas v. Union Carbide Agricultural Products Co., 473 U.S. 568 (1985) (environmental law: constitutionality of the arbitration/compensation provisions of the Federal Insecticide, Fungicide and Rodenticide Act).

Ruckelshaus v. Monsanto Co., 467 U.S. 986 (1984) (environmental law: constitutionality of federal pesticide registration program).

National Collegiate Athletic Association v. Board of Regents of the University of Oklahoma, 468 U.S. 85 (1984) (antitrust law: legality of college football television restrictions under Sherman Act per se and rule of reason analysis).

Monsanto Co. v. Spray-Rite Service Corp., 465 U.S. 752 (1984) (antitrust law: vertical restraints, resale price maintenance under the Sherman Act).

United States v. Rylander, 460 U.S. 752 (1983) (enforcement of IRS summons in contempt proceedings).

Metropolitan Edison Co. v. NLRB, 460 U.S. 693 (1983) (labor law: disparate punishment imposed on union officials).

Union Labor Life Insurance Co. v. Pireno, 458 U.S. 119 (1982) (antitrust law: the business of insurance exemption of the McCarran-Ferguson Act).

Cases Briefed in Federal and State Appellate Courts

GSI Technology, Inc. v. United Memories, Inc. (9th Cir. 2017) (contract dispute arising from design agreement for computer memory chips) (pending).

United States ex rel. Sant v. Biotronik, Inc. (9th Cir. 2016) (False Claims Act award of attorneys' fees) (pending).

Perry Capital LLC, et al. v. Lew, Secretary of the Treasury, et al. (D.C. Cir. 2015) (challenge to actions by the Federal Finance Housing Agency's actions as conservator for Fannie Mae and Freddie Mac) (amicus) (pending).

Sandquist v. Lebo Automotive, Inc. (California Supreme Court) (July 28, 2016) (availability of class-wide arbitration and related jurisdictional issues) (amicus) (pending).

Rochow v. Life Insurance Company of North America, 780 F.3d 364 (6th Cir. 2015) (en banc) (rejecting disgorgement of profits remedy for denial of benefits claim under ERISA plan) (amicus).

Metcalf Construction Co. v. United States, 742 F.3d 984 (Fed. Cir. 2014) (covenant of good faith and fair dealing in government procurement contract) (amicus).

Fractal Fund Management Ltd. v. Securities and Exchange Commission (2d Cir. 2013) (appeal by party challenging settlement in SEC enforcement proceeding) (appeal settled).

Westbard Apartments, LLC v. Westbard Investments, LLC (Maryland Court of Special Appeals 2013) (claims of breach of fiduciary duty and breach of contract in real estate transaction) (case settled).

In the Matter of USGen New England, Inc., Reorganized Debtor, TransCanada PipeLines, Ltd. v. USGen New England, Inc. (4th Cir. 2012) (breach of contract governed by Canadian law) (case settled).

Securities and Exchange Commission v. Illarramendi (2d Cir. 2012) (SEC enforcement action; standards for intervention; standards for entry of order freezing assets of relief defendants) (appeal settled).

Gerald D. Buckberg v. Edwards Lifesciences Research Medical, Inc., B219245 (Calif. Court of Appeal, 2d Dist.) (June 13, 2011) (prevailed in appeal from trial court decision in case involving breach of contract claims in patent licensing agreement for medical device technology).

In re USGen New England, Inc., TransCanada Pipelines Ltd. v. USGen New England, Inc. (D. Maryland) (2011) (appeal from bankruptcy court decision on breach of contract claim involving application of foreign law).

Falls Media, LLC v. Zobmondo Entertainment, LLC, 602 F.3d 1108 (9th Cir. 2010) (prevailed in reversing summary judgment in trademark dispute involving issues of distinctiveness and secondary meaning).

Wheeler v. Pilgrim's Pride Corporation, 591 F.3d 355 (5th Cir.) (en banc) (December 15, 2009) (elements of antitrust claim under Packers and Stockyards Act) (amicus).

Digene v. Third Wave Technologies, 323 Fed. Appx. 902 (Fed. Cir. April 1, 2009) (intellectual property and antitrust law: patent claim construction and monopolization claims in biomedical field).

Nano-Proprietary, Inc. v. Canon Inc., 537 F.3d 394 (5th Cir. 2008) (dispute arising from patent licensing agreement).

Cascade Health Solutions v. PeaceHealth, 515 F.3d 883 (9th Cir. 2007) (antitrust: standards for analyzing claims challenging bundled discounts) (amicus).

JBDL Corp. v. Wyeth-Ayerst Lab, 485 F.3d 880 (6th Cir. 2007) (antitrust: affirming summary judgment dismissal of Sherman Act section 2 case) (amicus).

Mallia v. Bennett Auto Supply (Fla. Ct. App. 2006) (appeal from largest asbestos personal injury verdict in the U.S. in 2005) (case settled).

In re Cable & Wireless Securities Litigation (4th Cir.) (appeal from dismissal of securities class action) (case settled).

ID Systems Canada, Inc. v. Checkpoint Systems (3d Cir.) (appeal from jury verdict involving antitrust, tortious interference and unfair competition claims) (case settled).

Sealed 1 v. Sealed 2 (9th Cir.) (white collar criminal law issues and defendants' rights) (case settled).

GTE Corp. v. Allendale Mutual Insurance Co., 372 F.3d 598 (3d Cir. 2004) (appeal from grant of summary judgment in insurance coverage case involving Y2K-related policy).

Guinness United Distillers & Vintners v. Anheuser-Busch, Inc. (2d Cir. November 4, 2002) (trademark mark: appeal from entry of preliminary injunction).

Maris Distributing Co. v. Anheuser-Busch, Inc., 302 F.3d 1207 (11th Cir. 2002) (antitrust law; prevailed in affirmance of favorable district court judgment).

Universal Avionics Systems Corp. v. Rockwell International Corp., 52 Fed. Appx. 897 (9th Cir. 2002) (antitrust law: affirmance of summary judgment on Sherman Act §1 tying claims and attempted monopolization claims).

Scimed Life Systems, Inc. v. Advanced Cardiovascular Systems, Inc., 242 F.3d 1337 (Fed. Cir. 2001) (patent infringement appeal involving medical devices).

Spectators' Communication v. Colonial Country Club, 253 F.3d 215 (5th Cir. 2001) (antitrust/communications).

Baxter International, Inc. v. McGaw, Inc., 149 F.3d 1321 (Fed. Cir. 1998) (patent infringement appeal).

Pacific Great Lakes Corp. v. Bessemer & Lake Erie Railroad Co., 130 Ohio App.3d 477 (Ohio Ct. Apps. 1998) (appeal from jury verdict in antitrust case).

Scallet v. Rosenblum, 106 F.3d 391 (4th Cir. 1997) (First Amendment: academic freedom) (amicus).

In re Marine Shale Processors, Inc., 91 F.3d 16 (5th Cir 1996) (environmental law; mandamus).

Total TV v. Palmer Communications, Inc., 69 F.3d 298 (9th Cir. 1995) (antitrust and unfair competition claims in cable television industry).

Anheuser-Busch, Inc. v. A-B Distributors, Inc., 62 F.3d 402 (11th Cir. 1995) (successful appeal of preliminary injunction barring termination of distributor).

Texaco Puerto Rico v. Department of Consumer Affairs, 60 F.3d 867 (1st Cir. 1995) (judicial rejection of administrative effort to obtain restitution).

Advo, Inc. v. Philadelphia Newspapers, Inc., 51 F.3d 1191 (3d Cir. 1995) (antitrust law: monopolization claims).

Van Vranken v. Atlantic Richfield Co., 11 F.3d 1069 (Fed. Cir. 1993) (successful affirmance of jury verdict in class action case involving overcharges in price of crude oil).

In re Lower Lake Erie Iron Ore Antitrust Litigation, 998 F.2d 1144 (3d Cir. 1993) (successfully upheld largest antitrust judgment ever affirmed on appeal in the United States).

Hilo v. Exxon, 997 F.2d 641 (9th Cir. 1993) (standards for preliminary injunctions under Petroleum Marketing Practices Act).

Sands, Taylor & Wood Co. v. The Quaker Oats Co., 978 F.2d 947 (7th Cir. 1992) (trademark law: successful appeal of damage award).

Alpha Lyracom Space Communications, Inc. v. Communications Satellite Corp., 946 F.2d 168 (2d Cir. 1991) (upholding claim of antitrust immunity).

International Surplus Lines Insurance Co. v. Rockwell International Corp. (3d Cir. 1990)
(insurance law; commercial contract claims) (case settled).

Berkey Photo, Inc. v. Eastman Kodak Co., 603 F.2d 263 (2d Cir. 1979) (Sherman Act section 1
and 2; Robinson-Patman Act; successful reversal of jury verdict).

United States v. GAF Corp., 596 F.2d 10 (2d Cir. 1979) (Antitrust Division civil investigative
demand).

Four Star Stage Lighting Co. v. Merrick, 60 App. Div.2d 806, 400 N.Y.S.2d 543 (N.Y. App. Div.
1st Dep't 1978) (libel/slander/tortious interference with contractual relations).