

The Latest Round of Litigator of the Week Runners Up

By Ross Todd
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Steve Strauss of **Cooley** got a team from **Latham & Watkins** booted from a suit arising from the largest Ponzi scheme in San Diego history—a \$400 million fraud where investors loaned money escrowed at Chicago Title to provide bridge loans to liquor licenses purchasers in California. (This being a Ponzi, no licenses were actually purchased.) Representing the title company, Strauss convinced San Diego Superior Court Judge Ronald Styn to grant a motion to disqualify on August 31 based on a finding that Latham had represented Chicago Title in another case that had a “substantial relationship” to the matter at hand.

IP litigator **Stuart Dunwoody** of **Davis Wright Tremaine** tasted victory at the Federal Circuit for Washington State University. The appellate court unsealed a decision last week in a big showdown over the rights to cultivate and sell the patented **Cosmic Crisp** apple, labelled by the **New York Times** as “the most promising and important apple of the future.” The court agreed with Dunwoody’s argument that the option ag-tech company **Phytelligence** had to license the fruit via a draft propagation agreement from 2012 was an unenforceable “agreement to agree” and not “an agreement with open terms.”

Representing **Restoration Robotics, Inc.**, **Latham & Watkins** partners **Matt Rawlinson**, **Gavin Masuda**, **Hilary Mattis**, and associate **Daniel Gherardi** got the first California trial court decision following March’s Delaware Supreme Court’s ruling in **Salzberg v. Sciabacucchi**, which held that federal

forum provisions are valid under Delaware law, but left the question open under other states’ laws. San Mateo Superior Court Judge **Marie Weiner** found on September 1 that both California and federal law permit federal forum provisions. The judge also held that **Restoration Robotics’** provision was enforceable under California law because requiring a shareholder to assert federal claims in federal court isn’t unfair or unreasonable.

On the pro bono front, **Douglas Baruch** and **Jennifer Wollenberg** of **Morgan, Lewis & Bockius** continued their winning ways for U.S. Army soldiers seeking to exercise their right to become U.S. citizens. The pair were recognized as Litigators of the Week last May while at their prior firm, **Fried, Frank, Harris, Shriver & Jacobson** after U.S. District Judge **Ellen Huvelle** in the District of Columbia granted summary judgment on the first of the cases. Huvelle recently issued permanent injunctions barring policies that blocked soldiers from pursuing citizenship based on their military service. The **Morgan Lewis** team also included senior litigation associates **Kayla Kaplan** and **Neaha Raol**.

And last but not least, **Tara Lee** of **White & Case** got a more-than-decade-old default \$117 million default judgment against a Hungarian cable TV company knocked out under the doctrine of laches. Since U.S. District Judge **Leonie Brinkema** of the Eastern District of Virginia noted the case’s “long and tortured procedural history” in granting the motion to dismiss last week, let it suffice to say the case presented a fascinating collision between the court’s extra-territorial jurisdiction over foreign defendants and its ability to enforce its own order through “contempt” powers. The jurisdictional question, at least within the Fourth Circuit, took precedence in this go-round.

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