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THE APPELLATE

HOT LIST

A SPECIAL REPORT

EDITOR'S NOTE: The U.S. Supreme Court arguments over the Patient Protection and Affordable Care Act—Obamacare, if you must—figure prominently in this year's list of hot appellate firms. Scarcely a marquee name in the business wasn't on the case in some way, shape or form. We also looked for firms that won big-money victories and landscape-shaping precedents in the federal circuit and state appeals courts, where thousands of cases are decided every year.

We asked our readers to nominate firms with at least one significant appellate win between May 2011 and May 2012 and that had an impressive track record overall. We supplemented the results with our own research to arrive at the list of 16 firms.

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PAUL SMITH

PHOTOS BY DIEGO M. FADZINSCHI

Jenner & Block

Despite losing appellate star Donald Verrilli Jr. to the Obama administration in 2009, Jenner & Block's appeals practice has held its own. Even as Verrilli has climbed through senior posts at Justice and White House counsel's office to become solicitor general, Jenner's 14-lawyer appellate group has continued to pull in top-tier work.

That included the successful challenge to the Defense of Marriage Act in the U.S. Court of Appeals for the First Circuit, which ruled on May 31 that the ban on federal recognition of gay marriage was unconstitutional. The court was influenced in part by briefs drafted by Jenner & Block partners Paul Smith and Luke Platzter, who worked with co-counsel from Gay & Lesbian Advocates & Defenders and lawyers from Boston firms Foley Hoag and Sullivan & Worcester.

That case is likely to end up before the U.S. Supreme Court as soon as next year.

The Supreme Court was the site of Jenner's biggest victory in 2011, when Smith won a 7-2 ruling that California's restrictions on the sale of violent video games to children violated the First Amendment.

The firm scored a major win for Viacom International Inc. in April, when the Second Circuit reinstated Viacom's copyright suit against Google Inc. subsidiary YouTube LLC over content uploaded to the Web video service. Smith and partners Matthew Hellman, William Hohengarten, Susan Kohlmann and Scott Wilkens convinced the appellate court to overturn a district court's 2010 grant of summary judgment to YouTube.

In June 2011, partner Barry Levenstam persuaded the Second Circuit to uphold a \$431 million arbitration award to client STMicroelectronics N.V. arising out of a dispute with Credit Suisse Securities LLC over compensation for losses from fraudulent investments. Eight months later, the firm helped trucking giant CRST Van Expedited Inc. beat back an appeal by the Equal Employment Opportunity Commission before the Eighth Circuit. The EEOC sought millions in damages and changes to the company's work policies to remedy alleged sexual harassment of female long-haul truck drivers.

Even better days may lie ahead. Should Verrilli decide to leave the solicitor general's office—or be forced out by a victory by Mitt Romney in November—Jenner's appellate group might regain a heavyweight. "When he left, there was one less person to be a magnet for work," Smith said. "Someday maybe he'll be back and we'll grow again."

—JASON McLURE

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