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Profile

Mark Wilner is a trial lawyer to the core. He ranks among a select number of Seattle lawyers who are equally comfortable trying serious, high-stakes personal injury or wrongful death cases—whether for the plaintiff or the defense—and handling complex, commercial litigation for businesses. Mark has litigated across the country, from state trial courts to the United States Supreme Court. For plaintiffs, he has helped achieve jury verdicts and settlements in the millions. For defendants, he has earned defense verdicts as well as dismissals on pretrial motions in a wide variety of cases. In recognition of his experience, Mark frequently is invited to speak on tort law and trial practice issues, has been appointed to the editorial board of the *Washington Civil Procedure Deskbook*, and is a member of the King County Judicial Conferencing Committee. He also has been designated on the "Top 100 List" for "Super Lawyers" in Washington. After graduating from law school at the University of Washington, Mark honed his legal research and writing skills as law clerk to the Honorable Richard Sanders of the Washington Supreme Court. He then was a litigation associate at Mundt MacGregor L.L.P. before joining GTTC's predecessor firm in 2005. He was named Partner at GTTC in 2009.

Education

- J.D., University of Washington School of Law, with honors, 2001
 - Notes & Comments Editor, *Washington Law Review*
 - Recipient, Judge Eugene Wright Scholarship Award
 - Judicial Extern, Honorable William L. Dwyer, U.S. District Court (W.D. Wash.)
- B.A. (Philosophy), Georgetown University, cum laude, 1996

Recognition

- Super Lawyers Top 100: Washington Super Lawyers List, 2018
- Super Lawyer, General Litigation, *Super Lawyers Magazine*, since 2014
- Rising Star, *Washington Law & Politics Magazine*, 2006 - 2012

Representative Matters

\$1 Million Settlement in Pedestrian Personal Injury Case

GTTC partners Mark Wilner and Jeff Thomas, obtained a \$1,085,000 settlement for long-time Seattle residents, Cynthia and Marguerite Civa. “The Sisters,” as they are affectionately known throughout the Capitol Hill neighborhood, were severely injured when struck by an SUV as they were crossing Broadway Avenue East on their way home. Following a failed early mediation, GTTC litigated the Civas’ case in King County Superior Court and eventually resolved the matter for a settlement involving payments of \$200,000 limits from a personal lines auto policy, \$850,000 from an excess business auto policy following coverage disputes, and \$35,000 from underinsured motorist coverage.

Favorable Outcome Following Three-Week "Stray Voltage" Jury Trial

In a case originally filed in 2012, local Whatcom County farmers sued long-time firm client Puget Sound Energy, Inc. alleging that PSE’s electrical distribution system contributed to increased levels of neutral-to-earth voltage (sometimes called “stray voltage”) on the plaintiffs’ farm, which in turn caused approximately \$6.5 million in lost milk production revenue. After a three-week jury trial in Whatcom County Superior Court during the summer of 2017, the jury rendered a net verdict for the plaintiffs for only \$178,000. The case settled before entry of judgment for even less. GTTC partners Mark Wilner and Jeff Thomas defended the company and helped achieve this favorable outcome.

Unanimous multi-million dollar federal jury verdict in wrongful maritime death case

In 2010, 33-year-old Lia Hawkins was part of a small crew working in a Ballard shipyard as part of a project to turn a 300-foot long oceanographic-research vessel into a luxury floating hotel. She worked part time as an office assistant but, to avoid losing her job, helped the others with large-scale demolition of sections of the ship, including throwing heavy metal refuse through a gap in the ship’s fourth-floor railing into a recycling container four decks below. Lia disappeared from the workplace, leaving her car, keys and purse behind; her drowned body was later found in the water next to the ship. Her estate filed a maritime wrongful death action, alleging that Lia’s employer had failed to maintain a reasonably safe workspace on the ship, including having Lia—untrained in maritime matters generally and ship construction specifically—handling the demolition work. After a two-week jury trial in U.S. District Court in Seattle, Mark Wilner and Susannah Carr (along with co-counsel) obtained a unanimous \$3.45 million verdict. In addition, the court awarded prejudgment interest and other relief, for a total judgment amount of over \$4 million. The Court subsequently directed the U.S. Marshal’s service to seize the ship and auctioned it off to help pay the judgment.

\$130 million trade secret case settlement

Move, Inc. (which operates the website Realtor.com) and Zillow are major competitors in the online real estate market. When two senior executives left Move and went to work for Zillow, Move sued the two executives and Zillow for misappropriation of trade secrets, breach of fiduciary duty, and other claims. The lawsuit included allegations that the two executives had intentionally destroyed evidence. After two years of preparation, the case was scheduled to go to trial in June 2016. As co-counsel to Jenner & Block, GTTC lawyers Jeff Thomas, Michael Rosenberger, Mark Wilner, and Michael Brown obtained a \$130 million settlement on behalf of Move and co-plaintiff the National Association of Realtors. The case

settled on the morning of the first day of trial.

\$1 million-plus settlement for failure to supervise probationer who caused fatal accident

Ellen DeBondt was a 44-year-old nurse as well as a popular surfer, kayaker and biker on the Olympic Peninsula. Shortly after Ellen left for work one morning in 2011, she was killed in a head-on collision with a drunk driver who crossed the center line near Port Angeles. The driver, who was on probation and had previous DUIs, was charged with vehicular homicide and driving under the influence—and her insurance policy only covered \$25,000 in liability. Investigation revealed botched oversight of this probationer—the system had failed. With Mark’s assistance (and after another law firm had declined the difficult and complex case), the victim’s estate pursued wrongful death claims against Clallam County, the City of Port Angeles, and others, for negligent supervision of the probationer. Following substantial pretrial discovery and motions, the case resulted in a \$1 million-plus settlement on the eve of the jury trial.

Multi-million dollar settlement for boy severely injured by baseball pitching machine

At a youth baseball club, a young boy had finished hitting drills in the batting cage and was picking up baseballs using his helmet as instructed when he was struck in the head by a baseball fired by a still-on “Iron Mike” pitching machine. As a result, the boy suffered a traumatic brain injury requiring a lifetime of special care. The boy’s devastated family sued the facility, alleging inadequate supervision of the children using its batting cages. Mark Wilner and Jeff Tilden represented the boy’s family in this complex three-year case.

Following pretrial litigation in King County Superior Court, the parties reached a settlement that required the defendant to pay \$2 million (primary layer insurance limits) and permitting a subsequent declaratory judgment action against the excess insurer for an additional \$1.6 million—a lawsuit that soon settled after it was filed. As a result, the boy will receive the services he needs and the facility has strengthened its batting-case supervision.

U.S. Supreme Court case casts shadow on short-swing insider trading

Section 16(a) of the Securities Exchange Act of 1934 imposes disclosure obligations on certain insiders. Section 16(b), in turn, imposes a form of strict liability on certain insiders that trade in corporate securities. In 2007, a woman filed 55 nearly identical actions under Section 16(b) against investment banks that had underwritten various initial public offerings between 1998 and 2000. In each case, she alleged that the underwriters worked with corporate insiders to artificially inflate the aftermarket price of the stock above the IPO price, which allowed the underwriters and insiders to profit from the aftermarket sale. Mark Wilner and Jeff Tilden represented the plaintiff in these actions. The district court dismissed the claims as time-barred, but the U.S. Ninth Circuit Court of Appeals reversed this decision. The case ended up in the United States Supreme Court with new insider trading law being issued for the entire country. The decision is reported at 132 S. Ct. 1414 (2012).

Canadian woman struck by truck, receives \$1.3 million

When their flight out of Bellingham Airport was delayed, a Canadian couple took a taxi to the Bellis Fair Mall to go shopping. After the cab driver dropped them off in a loading area at the mall, the woman was struck by an armored

vehicle owned by Kenneth L. Kellar Truck Lines. With the assistance of Mark Wilner and Jeff Thomas, the woman and her husband successfully sued Kellar Truck Lines. The case resulted in a \$1.3 million jury verdict for the plaintiffs.

In multi-state class action, health self-insurer required to change practices

In 2008 David Benson was severely injured in a motorcycle accident. He received \$25,000 from the driver's insurance, but this was well below the amount of his medical expenses. To pay the remainder, he submitted a claim to his own insurer, Providence Health & Services. Providence refused to pay the claim unless he first tendered over the money he had received from the driver's insurance. He refused and Providence denied his claim. With the assistance of Jeff Thomas and Mark Wilner, Benson filed a class action lawsuit alleging that Providence was liable for damages under the "made whole" doctrine – a state common law rule that precludes such demands. Benson prevailed, and he and other members of the class were fairly compensated.

Professional and Civic Involvement

- Editorial Board Member, Washington Civil Procedure Deskbook, Washington State Bar Association, 3d ed. 2014
- Member, King County Judicial Conferencing Committee, 2014

Publications and Presentations

- Author, "Rule 64. Seizure of Person or Property," Washington Civil Procedure Deskbook, 2014
- CLE Presenter, Number of Occurrences, Mealey's Scope of Coverage Conference, 2007
- Author, "Dealing with Dreiling," Litigation News, 2005
- CLE Presenter, Paralegal Ethics, 2003
- Author, "Justice at the Margins," Washington Law Review, 2000

Personal

Successful litigation requires good judgment—and there's no substitute for hard, roll-up-your-sleeves work. You also have to be "biggest person" in the courtroom, meaning that honesty and fairness—at all times—is crucial. If your opponent, judge, or jury doesn't trust you, you've lost.

Outside the office, I enjoy cycling and spending time with my wife and daughter. A perfect Sunday would include watching the Hawks with my family and friends. Maybe fishing too.