GORDON TILDEN THOMAS CORDELL | GTTC

Business Litigation

Overview

GTTC lawyers have experience in a broad spectrum of complex business litigation. We are particularly accomplished in the following areas:

- Consumer and product-liability class actions
- Shareholder derivative and securities litigation
- Business ownership and governance disputes
- Complex contract disputes
- Large-scale construction litigation
- Disputes over the movement of employees or principals from one firm to another, including issues related to non-compete agreements, trade secret protection, fiduciary duty issues, and the like
- Professional negligence claims and billing disputes
- Real estate litigation, from residential boundary and commercial landlord-tenant disputes to major condemnation cases and complex real estate transactions gone awry

Representative Matters

Expert witness evidence in EMF tort case ruled inadmissible

In order to meet growing demand, Puget Sound Energy decided to replace an existing 52-year-old substation in Kirkland with a new and considerably larger one, which went on line in 2010. A group of homeowners sued PSE in King County Superior Court, alleging that the electromagnetic fields emanating from the substation were a public and private nuisance. The court ordered plaintiffs to submit scientific evidence, which included expert testimony. With Jeff Thomas' help, PSE moved to exclude the plaintiffs' expert's declaration. After a three-day evidentiary hearing, the court ruled that the homeowners' expert was not scientifically reliable. The homeowners appealed. The Court of Appeals certified the case to the Washington Supreme Court for direct review. In 2012 the Supreme Court affirmed. A plaintiffs' ruling on this case could have had broad implications, potentially affecting 150 million homes across the U.S.

GORDON TILDEN THOMAS CORDELL | GTTC

Groundbreaking jury trial over Madoff-linked audits

This 2015 jury trial was the first successful lawsuit in the country against an auditor over losses tied to the largest Ponzi scheme in U.S. history. In 2010 FutureSelect Portfolio Management Inc., located in Redmond, Washington, sued Ernst & Young over faulty audits of a Madoff-linked feeder fund. Jeff Thomas represented the plaintiff, as co-counsel with noted Los Angeles trial lawyers Thomas, Alexander, Forrester& Sorensen LLP. In 2015, after a five-week trial, the jury sided with investors in this complicated case, finding that the accounting giant negligently signing off on audits of billions in assets that did not exist. The jury awarded $16 million in damages to FutureSelect. The award helped to recoup a portion of the many millions of dollars that FutureSelect had lost in its investment in a Madoff-linked feeder fund.

$130 Million Settlement in Trade Secret Case

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.

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 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).

Successful shareholder derivative case challenging board self-dealing

Frank Cordell and his colleagues represented the shareholders of publicly traded technology company Infospace (now Blucora) in a derivative action against the company's officers and directors. The action sought to invalidate a dividend plan that unfairly favored the directors who approved it. Frank was co-lead counsel and argued in opposition to the defendants' key motion to dismiss. After the court denied that motion, the case settled in 2010, with the defendants and their insurers repaying $28 million to the company and agreeing to undertake a variety of corporate governance reforms.

D.C. Court rules for building owner in construction defect dispute

A large, multi-employer pension fund with significant real estate holders was involved in a multi-million dollar construction defect suit involving extensive water damage in a building it owned in Washington, D.C. Dale Kingman and Haley Krug represented the pension fund in complex, multi-party litigation that ended in a three-month trial. The court awarded significant damages to repair leaks and resulting water damage throughout the building. Dale and Haley also obtained substantial recoveries for the owners through pre-trial settlements.

$6.3 million contract claim defeated in arbitration

Mike Rosenberger represented a company founded by a high-net-worth individual to manage his investments. Years after three former private equity managers were dismissed, they sued and sought damages of $6.3 million based upon alleged breaches of a carry plan and an incentive compensation plan. The case presented two main challenges: first, the contracts were extraordinarily complex and deemed ambiguous by a three-arbitrator panel; and, second, Mike had to convince the arbitrators to adopt the correct interpretation of the contracts despite his opponents' attempts to exploit the fact that his client was extraordinarily wealthy. After a three-day arbitration, the arbitrators unanimously found in favor of our client and awarded the client its attorneys' fees and costs.

Successful Resolution of Claims by Minority Member in Real Estate LLC

Michael Rosenberger represented an individual who assembled multiple lots and secured entitlements to develop in Seattle land into a large, multifamily project. The client formed a single purpose LLC to develop the project with an individual who provided financing and thus had majority control. After the project was sold for a substantial profit, the majority member refused to distribute to the client his share of the profits, alleging that the client owed money on a separate project and that the LLC agreement gave the majority member discretion as to timing of distributions. After hard-fought litigation involving extensive motion practice, the case settled with the client getting all the money he sought at the outset.

$5.2 million jury verdict in commercial lease dispute

In 2015, Jeff Tilden and Matthew Pierce successfully represented Lacey Marketplace Associates II, the owner and operator of a large commercial retail space in Lacey, Washington, in a week-long jury trial in U.S. District Court for the Western District of Washington. Lacey Marketplace asserted claims for breach of contract, tortious interference with contract, and fraudulent transfer of assets. On March 9, 2015, the jury returned a verdict on all counts in favor of Lacey Marketplace – in the amount of $5.2 million.

Commercial real estate partnership dispute ends in highly favorable settlement

The two members of a commercial real estate development corporation were at odds and sought to dissolve the company. The 51-percent partner claimed that the 49-percent partner still owed him $850,000, and wanted to deduct this amount from the minority member's share of the proceeds of a sale of one of its properties. With Michael Brown's help, the minority member sued for his fair share. The case settled with Michael's client receiving more than the $850,000 initially in dispute.