



## Matthew R. Berry

Partner

Seattle

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### Overview

Matt Berry is a Partner in the firm's Seattle office and represents both plaintiffs and defendants in state and federal courts across the United States, including courts in Alaska, California, Delaware, Louisiana, Massachusetts, New York, Texas, and Washington. Since joining Susman Godfrey, Mr. Berry has worked on a wide variety of complex commercial litigation including patent infringement, pharmaceutical licensing, patent licensing, piercing the corporate veil, audit malpractice, bankruptcy plan confirmation, breach of contract, life settlement insurance, wage and hour class action, and violations of the False Claims Act. Mr. Berry was featured in *Law360's Plaintiffs Bar Perspective* where he shared insights and advice on being a plaintiffs attorney. Berry was also named by *Law360* as a "Rising Star – Trials" in 2017 and a "Rising Star – Intellectual Property" in 2018 for his winning litigation work. In 2020, [2021](#), [2022](#), and [2023](#) *Lawdragon* included Berry on their list of the 500 Leading Plaintiff Financial Lawyers.

Mr. Berry's representative cases include:

#### ***In re Animation Workers (Northern District of California) (2014-2017)***

Mr. Berry represents a class of animation employees in a consolidated class action antitrust lawsuit against a number of large animation companies, including Pixar, DreamWorks, Disney, Sony, and Lucasfilms. Plaintiffs alleged they were subject to wage suppression as a result of "no poaching" agreements by their employers. Berry helped secure over \$168 million in settlements, before fees and expenses for the class. For his outstanding work on this case, [Berry was recognized by the American Antitrust Institute](#) for "Outstanding Antitrust Litigation Achievement by a Young Lawyer" in 2017.

#### ***Green Mountain Glass v. Ardagh* (District of Delaware) (2014-2017)**

Mr. Berry represents Green Mountain Glass in a patent infringement action filed in the District of Delaware against Ardagh Group. In April 2017 a federal jury in Wilmington, Delaware awarded Green Mountain Glass more than \$50.3 million in this lawsuit when it found Ardagh willfully infringed Green Mountain's patent No. 5,718,737 for technology that allows glass manufacturers to use recycled glass of mixed colors. Read more [here](#). *Law360* featured this case in their "How They Won It" series. Click [here](#) for that article. Additionally, this verdict ranks among the *National Law Journal's* "**Top 100 Verdicts of 2017**" – it was ranked #34 overall and the 4th highest IP verdict of 2017.

***United States ex rel. David M. Kester v. Novartis***

***Pharmaceuticals*** (Southern District of New York) (2014-2016)

Mr. Berry represented a whistleblower in what resulted in one of the largest settlements ever in the United States by a single whistleblower in a False Claims Act case. Susman Godfrey attorneys teamed up with Vogel Slade & Goldstein, the U.S. Attorney's Office for the Southern District of New York, and several different state attorneys general to secure over \$450 million in settlements from Novartis Pharmaceuticals Corp., Accredo Health Group, and Bioscrip Corp. The case alleged that Novartis defrauded the Medicare and Medicaid programs by illegally paying kickbacks to pharmacies so they would recommend to doctors and patients six of Novartis' specialty medications. Mr. Berry took many of the depositions of the Novartis and Bioscrip executives, including Novartis's in-house and outside counsel relating to its advice of counsel defense.

***In re Marriage of McCourt*** (Los Angeles Superior Court) (2010 – 2015).

Mr. Berry represented Frank McCourt in the marital proceedings pending in Los Angeles Superior Court that involved a dispute over the ownership of property, including the Los Angeles Dodgers. Jamie McCourt attempted to set aside the Stipulated Judgment and Marital Settlement Agreement, claiming that she did not know that the Dodgers Assets could sell for an amount exceeding \$2 billion. After a hearing on the motion, the Court has issued a Statement of Decision that rejects each of Jamie's claims. The California Court of Appeal denied Jamie's appeal and the California Supreme Court denied Jamie's petition for review.

***Zillow Inc. v. Trulia Inc.*** (W.D. Washington) (2013 – 2014).

Mr. Berry represented Zillow in a patent infringement action that it filed against Trulia in the Western District of Washington. Zillow successfully resolved the litigation after defeating Trulia's motion to dismiss.

***Interval Licensing LLC v. AOL, Inc., et al.*** (W.D. Washington) (2010- )

Mr. Berry currently represents Interval Licensing in a patent litigation against eleven defendants, including Google, Yahoo, Apple, eBay, Facebook, and AOL. Interval Research was founded by Paul Allen in 1992 to perform

advanced research and development in the areas of information systems, communications, and computer science. Interval was issued approximately 300 patents in less than a decade, and four of those patents are the patents-in-suit. Interval Licensing is wholly owned and controlled by Paul Allen. See articles about the case [here](#) and [here](#).

***Medivation v. UC Regents and Aragon*** (San Francisco Superior Court, Complex Division) (2011- 2013).

Mr. Berry represented Aragon Pharmaceuticals in a breach of contract action in the Complex Civil Division of the San Francisco Superior Court. Medivation filed the action against the Regents of the University of California alleging that it owns the right to develop certain chemical compounds for the treatment of advanced stages of prostate cancer that the Regents had licensed to Aragon, including the compound ARN-509. Within weeks of being retained, Mr. Berry and his team at Susman Godfrey successfully obtained leave of court for Aragon to intervene in the action to protect its property interest in the compounds. We then secured an accelerated discovery schedule that allowed us to complete fact and expert discovery and file summary judgment motions in less than a year after the case was first assigned to a judge in the complex division. On December 20, 2012, the court granted Aragon's motion for summary adjudication and held that Medivation has no rights to the compounds that were licensed to Aragon. Less than a month later, the court dismissed Medivation's remaining claims, granted Aragon all of the relief sought in its complaint, and held that Aragon was entitled to final judgment in its favor. This is a significant victory for Aragon – less than four months after final judgment was entered in Aragon's favor, Johnson & Johnson announced that it would acquire Aragon for \$650 million in cash up front along with \$350 million in contingent development milestone payments that could bring the total transaction value to \$1 billion.

***VoiceAge Corp. v. RealNetworks, Inc.*** (Southern District of New York) (2012 – 2013).

Mr. Berry defended RealNetworks in an action where VoiceAge was seeking over \$30 million in damages for a purported breach of a patent licensing agreement involving the RealPlayer. After defeating VoiceAge's motion for summary judgment, the case settled for a confidential amount.

***Lincoln Life & Annuity Co. of New York v. Berck*** (California Court of Appeals) (2010-2013).

Mr. Berry won reversal in a \$20 million life settlement rescission lawsuit against Lincoln Life & Annuity Company of New York in the California Court of Appeal. Lincoln's lawsuit was based on allegations that the insurance policies lacked an insurable interest because they were procured by third-parties for investment purposes and because there were net worth and other misrepresentations in the applications. The California Court of Appeal

reversed the trial court and ordered that the trial court enter judgment in favor of the trust. The Court of Appeals opinion is available at 2011 WL 1878855 (2011). A copy of the appellate court decision is available [here](#).

## Notable Representations

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### Representative Cases

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- ***United States ex rel. David M. Kester v. Novartis Pharmaceuticals*** (S.D.N.Y.) Mr. Berry represented a whistleblower in what resulted in one of the largest settlements ever in the United States by a single whistleblower in a False Claims Act case. Susman Godfrey attorneys teamed up with Vogel Slade & Goldstein, the U.S. Attorney’s Office for the Southern District of New York, and several different state attorneys general to secure over \$450 million in settlements from Novartis Pharmaceuticals Corp., Accredo Health Group, and Bioscrip Corp. The case alleged that Novartis defrauded the Medicare and Medicaid programs by illegally paying kickbacks to pharmacies so they would recommend to doctors and patients six of Novartis’ specialty medications. I took many of the depositions of the Novartis and Bioscrip executives, including Novartis’s in-house and outside counsel relating to its advice of counsel defense.
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claiming that she did not know that the Dodgers Assets could sell for an amount exceeding \$2 billion. After a hearing on the motion, the Court has issued a Statement of Decision that rejects each of Jamie's claims. The California Court of Appeal denied Jamie's appeal and the California Supreme Court denied Jamie's petition for review.

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- ***Union Oil Company of Cal. v. Forest Oil Corp.*** (D. Alaska) Mr. Berry successfully represented Forest Oil Corporation in an action in Alaska federal court in which Union Oil sued Forest Oil seeking over \$48 million in damages alleged to have been incurred in the operation of oil and gas leases in Alaska. This case settled for a confidential amount.
- ***Lincoln National Life Ins. Co. v. Snyder*** (D. Del.) Mr. Berry successfully represented an insurance trust in a case involving an \$18.5 million life insurance policy issued by Lincoln National Life Insurance Company. Lincoln sought a declaration that the policy was void ab initio and that Lincoln was entitled to keep over \$1.6 million in premiums that the trust paid. The trust obtained a favorable settlement after it successfully obtained an order from the court that the trust was entitled to a full refund of premiums plus interest should Lincoln rescind the policy for lack of insurable interest. (722 F. Supp. 2d 546 (D. Del. 2010)).
- ***In re Lehman Brothers Bankruptcy*** (Bankruptcy Ct., S.D.N.Y.) Mr. Berry was retained as litigation counsel by Lehman Brothers International (Europe) (in administration) to oppose confirmation of the bankruptcy plan filed by Lehman Brothers Holdings Inc., the worldwide corporate parent. LBHI's proceedings in the Southern District of New York entailed the largest bankruptcy in U.S. history. LBIE prepared to litigate LBHI's proposed use of "substantive consolidation" to ignore the separate existence of LBIE. With discovery underway and the confirmation hearing looming, LBHI settled with LBIE, thereby resolving claims among the two and certain of their affiliates worth over \$3 billion.
- ***Metropolitan Mortgage v. PricewaterhouseCoopers*** (E.D. Wash.) Mr. Berry successfully represented the bankruptcy estate of Metropolitan Mortgage in an audit malpractice case against PricewaterhouseCoopers in Washington federal court. The case settled for \$30 million the day before trial was scheduled to begin.
- **Defense of Wage and Hour Class Action.** Mr. Berry represented one of the world's largest retailers in a wage and hour class action with over 65,000 class members in Massachusetts state court.

## *Honors & Distinctions*

- **Intellectual Property.** Mr. Berry has represented clients in a number of intellectual property cases, including patent infringement actions in Texas, New York, Washington, and Delaware. Mr. Berry also represented Intellectual Ventures in an amicus brief filed with the United States Supreme Court in *KSR International Co. v. Teleflex, Inc.* Click [here](#) to view the brief.

- IAM Patent 1000: Worlds Leading Patent Professionals ([2023](#))
- *Lawdragon* 500 Leading Litigator ([2022](#), [2023](#))
- *Lawdragon* 500 Leading Plaintiff Financial Lawyers (2020, [2021](#), [2022](#), [2023](#))
- [National Impact Case of the Year Award](#), Benchmark Litigation (2019)
- [Rising Star – Intellectual Property](#), *Law360* (2018)
- [Outstanding Antitrust Litigation Achievement by a Young Lawyer](#), American Antitrust Institute (2017)
- [Under 40 Hot List](#), Benchmark Litigation (2017)
- [Rising Star – Trials](#), *Law360* (2017)
- [Plaintiffs Bar Perspective](#), *Law360* (2017)
- Washington Super Lawyer, *Law & Politics magazine* (Thomson Reuters, 2013-2022)
- Member, William L. Dwyer American Inn of Court
- Order of the Coif
- Executive Articles Editor, *Washington Law Review*
- Author, Does Delaware's Section 102(b)(7) Protect Reckless Directors from Personal Liability? Only if Delaware Courts Act in Good Faith, 79 Wash. L. Rev. 1125 (2004).
- Vice President, Moot Court Honor Board
- Graue Scholar

## *Clerkships*

Honorable Stephen S. Trott, United States Court of Appeals for the Ninth Circuit

Legal Extern to the Honorable Robert S. Lasnik, United States District Court for the Western District of Washington

## *Education*

The University of Idaho (B.S., Finance, summa cum laude)

## *Admissions*

**University of Wisconsin – Madison** (J.D., with High Honors)

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### **Bar Admissions**

- Washington
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### **Court Admissions**

- United States Supreme Court
- U.S. District Court for the Western District of Washington
- U.S. District Court for the Eastern District of Washington
- U.S. District Court for the Eastern District of Texas
- U.S. Court of Appeals for the Ninth Circuit
- U.S. Court of Appeals for the Fifth Circuit

## *Wins*

Susman Godfrey Client Green Mountain Receives Payment of \$64.5 Million Final Judgment Following Jury Verdict in Patent Infringement Suit Against Ardagh Glass, Inc.

Susman Godfrey Wins \$50.3 Million Federal Jury Verdict for Client Green Mountain Glass in Patent Infringement Lawsuit Against Ardagh Glass, Inc.

In Massive Victory for Whistleblower David Kester, USA and States, Novartis Pays \$390 Million to End Kickback Case

Susman Godfrey Secures \$120 Million Barclays LIBOR Settlement, Game-Changing Agreement from Bank to Cooperate in Ongoing Litigation

Appellate Court Victory for Susman Godfrey Client Frank McCourt

Susman Godfrey Announces \$418M Settlement with the National Association of Realtors in Real Estate Commission Antitrust Litigation