



Rachel S. Black

Partner

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Overview

Rachel Black focuses her practice on high-stakes commercial litigation for plaintiffs and defendants at trial and appellate levels across the country. These complex matters involve a variety of claims, including patent infringement, audit malpractice, financial fraud, unfair business practices, environmental remediation, breach of contract, and antitrust. She provides efficient, dedicated representation for high-profile clients such as General Electric, the world's leading commercial satellite manufacturer, SSL, and hedge-fund manager, Louis Bacon.

High Profile Litigation

Ms. Black recently served as counsel to the largest political subdivisions in California—including the University of California system, the California State University System, and the County of Los Angeles, to name a few—in a ground-breaking suit against wireless carriers for over-billing the government. In the matter, *State of California, et al., On The Go Wireless, LLC, v. CELLCO Partnership, et al*, she helped secure settlements of \$175 million.

Ms. Black also served as legal counsel to former members of the legendary rock group The Turtles in *Flo & Eddie, Inc. v. Sirius XM Radio, Inc.* in a certified class action lawsuit against Sirius XM that settled less than 48 hours before the jury trial was scheduled to begin. Sirius XM agreed to pay at least \$25.5 million (over \$16 million after fees and expenses) and royalties under a 10-year license that is valued up to \$62 million (over \$41 million after fees and expenses) as compensation for publicly performing without a license Pre-1972 sound recordings. The settlement was [approved by the Court](#) and received widespread media coverage from [The New York Times](#), [Billboard](#), [The Hollywood Reporter](#), [Law360](#), [Rolling Stone](#), [Variety](#), [Reuters](#) and [Managing IP](#).

Ms. Black is not deterred by any opponent, no matter how formidable. In *In re Queen's University at Kingston et al*, Black and a team of Susman Godfrey attorneys represent Queens University in a patent battle against multinational conglomerate Samsung, where the team won a first of its kind recognition of patent agent privilege from the Federal Circuit. Ms. Black was recognized with the Editor's Choice Award from [Managing IP](#) for her efforts on this case.

Recognition

The legal community has taken note of Ms. Black. In 2021 *National Law Journal* Named her a [Plaintiffs' Lawyer Trailblazer](#). and in 2020 it named her an [Elite Woman of the Plaintiffs Bar](#) (ALM). Black has been recognized as one of the "Top 50 Washington Women Super Lawyers" every year since 2015, a "Top 100 Washington Super Lawyer" every year since 2017, and a "Washington Super Lawyer" every year since 2012 by *Washington Law & Politics Magazine* (Thomson Reuters). For its 2018 - 2021 research cycles, Ms. Black was recognized by *U.S. News - The Best Lawyers in America*® as a top litigator in Seattle in three

areas: commercial litigation, intellectual property litigation and patent litigation (Woodward White Inc.).

In 2019, Ms. Black was selected as a Fellow, Litigation Counsel of America, a peer-selected trial lawyer honor society. In January 2012, Ms. Black was elected to The Fellows of the American Bar Foundation. The Fellows of the American Bar Foundation is an honorary organization of lawyers, judges and legal scholars whose public and private careers have demonstrated outstanding dedication to the welfare of their communities and to the highest principles of the legal profession.

Ms. Black is also a powerful advocate for women and diversity in the legal profession. In 2006, Ms. Black founded the Mother Attorneys Mentoring Association of Seattle, a specialty bar organization recognized by the Washington State Bar Association. This organization has paved the way for several related groups around the country.

Education

- University of California at San Diego (B.A., 1991)
- University of Nevada, Las Vegas (M.S., with honors, 1996)
- Cornell Law School (J.D., *magna cum laude*, 1999)

Clerkship

- Law clerk to the Honorable Robert R. Beezer in the United States Court of Appeals for the Ninth Circuit (2000 - 2001).
- Law clerk to the Honorable Alan C. Kay in the United States District Court for the District of Hawaii (1999 - 2000).

Notable Representations

Government Contracts

- ***On The Go Wireless, LLC, v. CELLCO Partnership, et al.*** Represented the largest political subdivisions in California—including the University of California system, the California State University System, and the County of Los Angeles, to name a few—in a groundbreaking suit against wireless carriers for over-billing the government. The case—*State of California, et al., On The Go Wireless, LLC, v. CELLCO Partnership, et al.*—settled in 2020 for nearly \$140 million.

Business Disputes

- ***Cosmos Granite v. Wall to Wall.*** Took over representation of Cosmos Granite (West), LLC, in its multi-million dollar case against Wall to Wall Tile & Stone, LLC, et al., just months before trial, pursuing claims for breach of contract, account stated, tortious interference, and fraud (among others) and defending against counterclaims including fraud and breach of contract. Ms. Black successfully negotiated a confidential settlement on behalf of Cosmos in, which provided that Wall to Wall would make a series of settlement payments. After Wall to Wall defaulted on the settlement agreement the court entered a [judgement](#) for over \$5.5 million to be paid to Cosmos by Wall to Wall.
- ***Peak Web v. Machine Zone.*** Represented Peak Web in its \$100+ million lawsuit against online gaming company Machine Zone for breach of contract, fraud, and trade secret misappropriation in California state court. The matter was settled on confidential terms.
- ***Metropolitan Mortgage Securities, Inc. and Summit Securities, Inc. v. PriceWaterhouseCoopers.*** Retained by the bankruptcy estates of sister companies Metropolitan

Mortgage & Securities and Summit Securities to pursue claims against professionals for actions that led to the financial collapse of the companies. Metropolitan and Summit's joint bankruptcy is the largest in the history of the Eastern District of Washington. Ms. Black represented the estate in claims against a number of third parties, including former officers and directors, auditors, and investment firms, and was also retained to defend Metropolitan in a claim brought by one of its subsidiaries.

- **Deutsche Bank Securities Fraud Litigation.** Represented 17 high net-worth exchange fund investors in a Maryland state court action for fraud and negligent misrepresentation against Deutsche Bank Securities, its subsidiary Alex Brown Management Services, and the fund's managers. After the plaintiffs overcame the defendants' motions for summary judgment, the case settled for a confidential amount.
- **DLN Holdings LLC Business Dispute Litigation.** Represented DLN Holdings LLC, the buyer of a \$53 million government contracts business, in a breach of contract, fraud, and misrepresentation action against the sellers in state court in Fairfax County, Virginia. Shortly after the parties exchanged expert reports, the case settled on confidential terms.

Intellectual Property

- ***Flo & Eddie, Inc. v. Sirius XM Radio, Inc.*** Represents Flo & Eddie Inc. in a class action against Sirius XM Radio Inc. seeking royalty payment for songs recorded before 1972 that were played by Sirius XM, in violation of state copyright law. Less than 48 hours before trial, the parties entered into a settlement. Sirius XM agreed to pay at least \$25.5 million (over \$16 million after fees and expenses) and royalties under a 10-year license that is valued up to \$62 million (over \$41 million after fees and expenses) as compensation for publicly performing without a license Pre-1972 sound recordings. The settlement was [approved by the Court](#), and has received widespread media coverage from publications such as [The New York Times](#), [Billboard](#), [The Hollywood Reporter](#), [Law360](#), [Rolling Stone](#), [Variety](#), [Reuters](#), and [Managing IP](#).
- ***Two-Way Media v. AT&T***. Ms. Black won a \$27.5 million verdict on behalf of Two-Way Media, LLC, in a patent infringement suit in the Western District of Texas against various AT&T entities relating to the streaming of audio and video content over the Internet. Defendants Akamai Technologies, Inc., and Limelight Networks, Inc. settled with Two-Way Media for a confidential amount early in the litigation. Ms. Black also represented Two-Way Media in a prior patent infringement case against AOL LLC in the Southern District of Texas. That case settled for a confidential amount after the first week of trial.
- ***Timeline, Inc. v. Microsoft***. Represented Timeline, Inc. against Microsoft and its wholly owned subsidiary for breach of contract and patent infringement relating to Timeline's database software. After defeating the defendants' challenge to the validity of the patents, the case settled on confidential terms on the eve of trial. The case was filed in federal court in the Western District of Washington.

Antitrust

- ***Insignia Systems v. News Corp.*** Represents Insignia which alleges that News Corp. unlawfully maintains a monopoly in the market for third party-placed in-store advertising
- **Circuit City Antitrust Litigation.** Represented the Trustee of the Circuit City Stores, Inc. Liquidating Trust in its opt-out antitrust action against over 25 defendants in federal court in the Northern District of California. Claims included violations of the Sherman Act, violations of the California Cartwright Act, and unfair competition for conspiracy to fix the price of liquid display panels. Claims against all defendants settled before trial. Cumulative settlements totaled in the hundreds of millions of dollars.
- ***Novell v. Microsoft***. Represented Novell, Inc. in developing antitrust claims against Microsoft. The preparation of Novell's claims resulted in a \$536 million cash settlement,

Class Actions (Plaintiff And Defense)

- ***Yevgeniya Granina, Individually and On Behalf Of All Others Similarly Situated, Tarzana Emergency Medical Associates, Inc. et al.*** Represents a putative class of plaintiffs who are bringing cutting-edge claims against a group of hospitals and emergency department medical provider groups after receiving a surprise balance bill from an out-of-network emergency department associated with an in-network hospital. Claims are for violations of California's Unfair Competition Law and Consumer Legal

Remedies Act, for breach of implied contract, and declaratory relief

- ***Kana Liu, Individually And On Behalf Of All Others Similarly Situated, Dignity Health, Vep Healthcare, Inc., And Ridgeline Emergency Physicians Medical Group, Inc.*** Serves as lead counsel to Kana Liu and a putative class of plaintiffs who are bringing cutting-edge claims related to surprise balance billing against Dignity Health; VEP Healthcare, Inc.; and Ridgeline Emergency Physicians Medical Group, Inc. under California's unfair competition law and Consumer Legal Remedies Act, for breach of implied contract, and for declaratory relief.
- **Google AdWords Litigation.** Represented a nationwide class against Google for breach of contract, unfair competition, and false advertising relating to Google's AdWords billing practices and related disclosures. Ms. Black's written advocacy opposing a summary judgment motion positioned the class to obtain a \$20 million settlement (\$14.8 million net of fees and expenses). Ms. Black obtained final approval of the settlement in the United States District Court for the Northern District of California. The Ninth Circuit affirmed the district court's final judgment.
- **Bristol Bay Fishermen Class Action.** Represented a class of Bristol Bay salmon fishermen in a four-month antitrust trial in Anchorage, Alaska against seafood processors and importers. The plaintiffs obtained substantial settlements before and after a jury verdict in the defendants' favor.
- **Alaska Airlines Employment Class Action.** Represented Alaska Airlines in Los Angeles Superior Court, in defense of a class action suit alleging violation of state labor law in connection with pilot applications for employment. The case settled for nominal sum.

Insurance

- ***PHL Variable Insurance Company v. The Edwin Fuld Live Insurance Trust.*** Defended a \$15 million life insurance rescission lawsuit brought by PHL Variable Insurance Company ("Phoenix") in federal court in the Middle District of Florida. Phoenix alleged that the insurance policy lacked an insurable interest because it was procured by a third-party for investment purposes and because there were net worth and other misrepresentations in the application. Ms. Black achieved a favorable settlement for the defendant.

Environmental

- **Environmental Litigation.** Ms. Black represented a developer in a suit in federal court in the Western District of Washington to recover environmental remediation costs pursuant to Washington state and federal environmental laws. The case settled successfully following completion of discovery.

Honors and Distinctions

- [Plaintiffs Lawyer Trailblazer](#), *National Law Journal* (2021, ALM)
- Recommended Lawyer, [Dispute Resolution: General Commercial Disputes, The Legal 500](#) (Leagalease, Ltd., 2020)
- [Elite Woman of the Plaintiffs Bar](#), *National Law Journal* (2021, ALM)
- Recognized as a top litigator in Seattle in three practice areas: Commercial Litigation, Intellectual Property Litigation, and Patent Litigation. *S. News -The Best Lawyers in America®* (2018 - 2022, Woodward White Inc.)
- Editor's Choice Award, (*Managing IP*, 2017) for work on *In re: Queen's University at Kingston et al.* Read more [here](#).
- Washington Women Lawyer's President Award (2016)
- Top 100 Washington Super Lawyer, *Washington Law & Politics Magazine* (Thomson Reuters, 2017 - 2021)
- Top 50 Washington Women Super Lawyer, *Washington Law & Politics Magazine* (Thomson Reuters, 2015 - 2021)

- Washington Super Lawyer, *Washington Law & Politics Magazine* (Thomson Reuters, 2012 - 2021)
- Rising Star, *Washington Law & Politics Magazine* (Thomson Reuters, (2004, 2006-2009, 2011)
- Fellow, Litigation Counsel of America
- Fellow, American Bar Foundation
- Member, Seattle Intellectual Property American Inn of Court
- Notes Editor, Cornell Law Review, 1998-1999

Professional Associations and Memberships

- Admitted to bar: 2001, New York; 2002, Washington
- Admitted to practice in the Ninth Circuit, the Eastern and Western Districts of Washington, the Eastern and Southern Districts of Texas, the United States Court of Appeals for the Federal Circuit, and the Supreme Court of the United States
- Member, Seattle IP Inn Of Court
- Fellow, Litigation Counsel of America (“LCA”). *LCA is a peer-selected trial lawyer honor society composed of less than one-half of one percent of American lawyers. Fellowship in the LCA is highly selective and by invitation only. LCA fellows are selected based upon excellence and accomplishment in litigation, both at the trial and appellate levels, and superior ethical reputation.*
- Member, Fellows of the American Bar Foundation. *The Fellows of the American Bar Foundation is an honorary organization of lawyers, judges and legal scholars whose public and private careers have demonstrated outstanding dedication to the welfare of their communities and to the highest principles of the legal profession. Membership in the Fellows is highly selective, limited to the top one-third of 1% of lawyers licensed to practice in each jurisdiction. Members are nominated by Fellows in their jurisdiction and elected by the Board of the American Bar Foundation.*

MAMAS

Ms. Black is a powerful advocate for women and diversity in the legal profession. In 2006, she founded the [Mother Attorneys Mentoring Association of Seattle](#), a specialty bar organization recognized by the Washington State Bar Association. The organization’s goals include empowering and supporting mother attorneys and promoting their advancement within the profession. She served as the President of the organization until 2012 and is currently a member of the Board of Directors. Since its founding, the organization has grown dramatically and has served to inspire the founding of sister organizations in other cities throughout the country, including [San Diego](#), [Austin](#), Denver, [Philadelphia](#), [Northern Virginia](#), [Los Angeles](#) and Sacramento.

Ms. Black has also been a member of Susman Godfrey’s diversity committee and is a former member of the Washington State Bar Committee for Diversity.