



## Rachel S. Black Partner

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### Overview

Seattle partner Rachel Black focuses her practice on high-stakes commercial litigation for plaintiffs and defendants, both at the trial and appellate levels. Ms. Black has tried and managed high profile, high stakes, and widely covered matters in state and federal courts across the country involving 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.

Ms. Black 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](#) in 2017, 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](#).

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. In March 2017, Ms. Black and her team from this case won an Editor's Choice Award from [Managing IP](#) for their efforts on this case. Read more [here](#).

It is not surprising that the legal community has taken note of Ms. Black. Ms. Black was named a [2020 Elite Woman of the Plaintiffs Bar by National Law Journal](#) (ALM). Since 2015, Black has been recognized as one of the "Top 50 Washington Women Super Lawyers." Ms. Black has also been named a "Top 100 Washington Super Lawyer" from 2017 to 2020 and a "Washington Super Lawyer" every year from 2012 through 2020 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 for Commercial Litigation, Litigation - Intellectual Property, and Litigation - Patent (Woodward White Inc.).

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).

## Honors and Distinctions

- Recommended Lawyer in [Dispute Resolution: General Commercial Disputes by The Legal 500](#) (Leglease, Ltd., 2020)
- Named a [2020 Elite Woman of the Plaintiffs Bar by National Law Journal](#) (ALM)
- Recognized by *U.S. News - The Best Lawyers in America*® as a top litigator in Seattle for Commercial Litigation, Litigation - Intellectual Property, Litigation - Patent (2018 - 2021, Woodward White Inc.)
- Recipient of the 2017 Editor's Choice Award from *Managing IP* for work on *In re: Queen's University at Kingston et al.* Read more [here](#).
- Recipient of the 2016 Washington Women Lawyer's President Award.
- Named a Top 100 Washington Super Lawyer by *Washington Law & Politics Magazine* (Thomson Reuters) from 2017 through 2020.
- Named a Top 50 Washington Women Super Lawyer by *Washington Law & Politics Magazine* (Thomson Reuters) from 2015 to 2020.
- Named a Washington Super Lawyer by *Washington Law & Politics Magazine* (Thomson Reuters) from 2012 to 2020.
- Named a "Rising Star" by *Washington Law & Politics Magazine* (Thomson Reuters) six times (2004, 2006-2009, 2011).
- Fellow, American Bar Foundation.
- Note Editor, Cornell Law Review, 1998-1999.

## Notable Representation

- In 2018, Ms. Black 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 December 2018, which provided that Wall to Wall would make a series of settlement payments. After Wall to Wall defaulted on the settlement agreement in July 2019, the court entered a judgement for over \$5.5 million to be paid to Cosmos by Wall to Wall. Click [here](#) to see the judgement entered by the court.
- Ms. Black is currently part of a team of senior attorneys from Susman Godfrey who represent 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.*—is pending in state court in Sacramento, California, with over \$1 billion in potential exposure.
- Ms. Black 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 in late 2017.
- Ms. Black represents Plaintiff 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. Less than 48 hours before trial, the parties entered into a settlement valued at up to \$99 million. The settlement was approved by the court in 2017. Read more about the case [here](#).
- Ms. Black 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.
- Ms. Black won a [\\$27.5 million verdict](#) on behalf of plaintiff 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.
- Ms. Black 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. Ms. Black obtained final approval of the \$20 million settlement in September 2009, in the United States District Court for the Northern District of California. The Ninth Circuit affirmed the district court’s final judgment.
- Ms. Black 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.
- Ms. Black 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.

- Ms. Black represented bankrupt financial companies Metropolitan Mortgage Securities, Inc. and Summit Securities, Inc. against their auditor PriceWaterhouseCoopers for breach of contract and accounting malpractice. Accounting issues in the case included treatment of a complex international tax shelter, valuation of mortgage backed securities, and reporting various sophisticated commercial real estate transactions. The case, filed in the Eastern District of Washington, settled for \$30 million at the start of trial.
- Ms. Black represented plaintiff Timeline, Inc. in a case 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.
- Ms. Black 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.
- Ms. Black represented Novell, Inc. in developing antitrust claims against Microsoft. The preparation of Novell's claims resulted in a \$536 million cash settlement of those claims before filing suit.
- Ms. Black 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.
- Ms. Black 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.
- 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.

## 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

Ms. Black is a fellow of the Litigation Counsel of America ("LCA"), a peer-selected trial lawyer 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.

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. 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.

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. 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.