

4th-Year Associate Earns Bragging Rights in Appeal Against Apple

By Ben Hancock

San Francisco—It's not every day that you face off on appeal against Dr. Dre. But to also be an associate lawyer leading a multimillion-dollar contract case, with a former appeals court justice as opposing counsel? That's a lot of pressure.

For Davida Brook, a fourth-year associate at Susman Godfrey in Los Angeles, it was just the opportunity she had been hoping for.

Brook briefed and argued an appeal last month against Beats Electronics—now owned by Apple Inc. and co-founded by famous rapper Dr. Dre—in a royalty spat worth roughly \$100 million.

Leading the litigation for Beats on appeal was Miriam Vogel of Morrison & Foerster, who was formerly a justice at the very same appellate court before joining the firm in 2008.

Brook's biggest challenge, though, was not overcoming any nervousness about the stakes or her opponents. Instead, it was distilling the years of litigation into a clear narrative. "It's a special skill to see old material and material that's familiar to you with fresh eyes," she said in an interview.

On Monday, her efforts paid off when the California Second District Court of Appeal reversed a grant of summary judgment against her client Steven Lamar, who helped come up with the idea for a celebrity-endorsed headphone line.

The court agreed with Brook that the contract in dispute is vague on the issue of whether Lamar is entitled to royalties on only Beats' original over-the-ear headphone product—the Studio—or its subsequent nine headphone models as well, as Lamar contends. But it also went a step further, suggesting that Lamar's interpretation may be more likely.

"Based on the extrinsic evidence presented and the language of the contract, we find that it is equally, if not more, plausible that the parties contemplated the interpretation for which Lamar advocates," Presiding Justice Roger Boren wrote. The decision by the three-justice panel sends the case back down to Los Angeles Superior Court for a jury trial on which interpretation is correct.

Vogel couldn't be reached for comment, but Brook said she has built a good rapport with her opposing counsel and that it was "exciting" to see so many women involved in the case. In addition to Vogel, Justice Judith Ashmann-Gerst was on the panel hearing the case. (Justice Brian Hoffstadt rounded out the panel.)

In order to be in a position to lead the appeal, Brook said she invested time early on to become deeply familiar with the facts and earn the trust of Lamar. When it was time to file an appeal, she let it be known that she wanted to head it up. "Don't wait to be asked. Volunteer,"



Davida Brook, Susman Godfrey

Robert Millard

she said, when asked if she has any advice for her contemporaries.

But she also said that support from Susman partner Brian Melton was critical. At court, he was at hand, "ready, willing and able" to pass a sticky note, if need be, she said.

So did he pass her any? "Not too many," Brook laughed.

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