

ALTERNATIVE DISPUTE RESOLUTION

Wargo French's Alternative Dispute Resolution ("ADR") practice was developed to assist our clients in managing conflict in today's litigious business environment. Many companies are learning the hard way that a successful organization must be able to respond to all business disputes promptly and effectively. The existence of claims and litigation should not be the only reason to consider ADR. Proactive solutions, such as implementing an effective ADR program and enforcing existing contractual obligations through ADR processes, can substantially reduce the likelihood that your company will face future lawsuits, multiple-plaintiff claims or class actions.

Wargo French specializes in working with organizations and their legal departments to deliver a full array of ADR services. Our services include:

- Designing, implementing and administering conflict management programs including the development of ADR programs, early case assessment and litigation management programs.
- Representing clients in domestic and international ADR proceedings such as mediations and arbitrations.
- Representing clients in state and federal courts in actions to confirm arbitration awards pursuant to federal and state laws.
- Representing clients in state and federal courts in actions relating to the enforcement of arbitration clauses.
- Acting as a certified arbitrators and mediators in a variety of commercial disputes.

The following matters are indicative of the types of ADR matters successfully handled by Wargo French attorneys:

- Developed the Wargo French Arbitration Team, which focuses on building systems for managing clients' disputes through the use of a variety of ADR mechanisms. Through this program, Wargo French has successfully and efficiently resolved thousands of disputes on behalf of its clients.
- Developed an ADR program to resolve all customer disputes for a worldwide office equipment and supply company and assisted in drafting an arbitration clause that has been enforced in every jurisdiction in which it has been challenged. Wargo French currently manages all customer disputes for this corporation and has successfully arbitrated thousands of disputes over the past nine years.
- Developed and implemented an ADR program for one of the world's largest web hosting companies. Wargo French developed arbitration provisions for contracts entered into

electronically through the Internet and assisted in enforcing these arbitration provisions using “click wrap” electronic acceptance of terms.

- Represented major insurance company in multiple arbitration proceedings pending in Delaware involving, among other claims, a \$94 million claim asserted against our client. Obtained a multimillion dollar settlement in favor of our client following extensive discovery and briefing on the merits.
- Represented office equipment manufacturer in arbitration involving dispute with hospital chain based in Texas. Obtained favorable settlement for client after extensive discovery proceedings.
- Represented pharmaceutical company in arbitration in Pennsylvania arising from breach of sales and royalty agreement. Obtained favorable settlement for client following mediation.
- Represented office equipment manufacturer in arbitration in Georgia against national bank relating to breach of long term supply agreement. Obtained favorable settlement for client after extensive discovery proceedings.
- Represented office equipment manufacturer in arbitration in Georgia against office services company. Obtained a judgment in favor of client following a full arbitration hearing.
- Represented major warranty company in arbitration in Georgia against large furniture retail chain. Obtained favorable settlement for client after extensive arbitration proceedings.

APPELLATE LITIGATION

Wargo French attorneys routinely litigate appellate matters in state and federal courts across the nation, and on numerous occasions succeeded in significantly changing the law in favor of our clients' interests. While a portion of our appellate work is generated from cases which our attorneys litigated from their inception in the trial court, our attorneys also serve as dedicated appellate counsel to clients in various different industries. In fact, Wargo French is often called upon to step in for a previous firm or firms immediately upon the filing of an appeal to resolve any complex questions of law that might be implicated thereby.

The following matters are indicative of the types of appellate matters successfully handled by Wargo French attorneys:

- On certiorari to the Georgia Supreme Court, obtained affirmance of intermediate appellate court's determination that home loan borrower lacks standing to sue creditor on the basis of asserted defects in the assignment of his or her security deed between creditors, along with critical clarification of the point that even if borrower is third-party beneficiary of certain parts of the assignment, such status did not provide borrower with right to dispute the assignment itself. *Ames v. JP Morgan Chase Bank, N.A.*, 298 Ga. 732 (2016).
- In case of first impression involving proper definition of the word "sale" in statute governing the deadline for subordinate lienholder to file claim for surplus funds following a judicial foreclosure, preserved client's right to surplus funds upon successful argument that "sale" was properly defined as date title to property was ultimately conveyed rather than date of foreclosure auction. *Straub v. Wells Fargo Bank, N.A.*, 182 So. 3d 878 (Fla. 4th DCA 2016)
- On appeal from judgment of the bankruptcy court in case involving termination of the automatic bankruptcy stay with respect to serially-filing debtor, successfully navigated circuit split and obtained first federal district court ruling that stay terminated entirely, including as to property of bankruptcy estate, thirty days post-petition. *Vitalich v. The Bank of New York*, 569 B.R. 502 (N.D. Cal. 2016)
- Obtained reversal of United States Patent and Trademark Office (USPTO)'s refusal to register client's trademark upon appeal to the Trademark Trial and Appeal Board, successfully arguing that confusion with prior registered mark cited by USPTO was not likely and allowing client to obtain valuable trademark registration. *In re Brookwood Funding, LLC*, 2016 WL 1045682 (T.T.A.B. 2016)
- On rehearing in appeal involving efforts by corporate defendant to evade personal jurisdiction in state where subsidiaries undisputedly did business, obtained detailed dissent opining that defendant should be deemed alter-ego of subsidiary, providing grounds to seek further review before state Supreme Court (petition for review currently pending). *TMX Fin. Holdings, Inc. v. Wellshire*, 515 S.W.3d 1 (Tex. App. 2016).

- Obtained affirmance of summary judgment on behalf of lender defending itself against claims for wrongful foreclosure, trespass, and violations of the Real Estate Settlement Procedures Act (RESPA). *Bates v. JPMorgan Chase Bank, NA*, 768 F.3d 1126 (11th Cir. 2014).
- Upon certification of question of great public importance to Georgia Supreme Court regarding whether holder of security deed in real property was required to also hold underlying debt to foreclose upon security interest, obtained a ruling in favor of multinational financial institution, allowing client to engage in non-judicial foreclosure proceedings on behalf of third-party debt holders without undergoing potentially massive task of re-assigning security deeds on hundreds of thousands of properties. *You v. JP Morgan Chase Bank*, 743 S.E. 2d 428 (Ga. 2013).
- Upon certification of question of great public importance to Florida Supreme Court regarding standard applicable to motion to vacate judicial sale conducted in error, obtained a ruling clarifying the standard in face of inconsistent lower court application, in favor of multinational financial institution, and allowed the client to argue for vacation of sale based on equities of each case rather than adhere to strict standard requiring evidence of gross inadequacy of sale price. *Arsali v. Chase Home Fin. LLC*, 121 So. 3d 511 (Fla. 2013).
- Obtained affirmance of summary judgment on behalf of national cable operator in wage-and-hour employment dispute, where former employee of client claimed that client had an affirmative duty to ensure that employees actually took scheduled meal and rest breaks; ruling in client's favor constituted Ninth Circuit's first explicit affirmation of California Supreme Court's landmark decision in favor of employers in *Brinker v. Superior Court*, 53 Cal. 4th 1004 (Cal. 2012). *Deleon v. Time Warner N.Y. Cable LLC*, 510 F. App'x 545 (9th Cir. 2013).
- In case of first impression, after client multinational financial institution was stripped of property lien due to untimely filing of motion by trial counsel, associated into case for purposes of appeal and obtained reversal of judgment on ground that court had failed to conduct an evidentiary hearing to determine whether trial counsel's private postage-meter mark was sufficient to rebut presumption of correctness afforded certificate of service. *JPMorgan Chase Bank, Nat. Ass'n v. Bigley*, 120 So. 3d 1265 (Fla. Ct. App. 2013).
- Obtained affirmance of summary judgment on behalf of multinational financial institution in employment dispute, where former employee claimed he had been terminated for refusing to take a polygraph test in violation of federal Employee Polygraph Protection Act ("EPPA"); ruling in client's favor constituted Eleventh Circuit's first published opinion interpreting the "ongoing investigation"

exemption to the EPPA. *Cummings v. Washington Mut.*, 650 F. 3d 1386 (11th Cir. 2011).

- Obtained affirmance of summary judgment on behalf of major regional utility provider in employment dispute, where former employee claimed he was unlawfully retaliated against after filing an age discrimination claim against client, yet evidence demonstrated no causal connection between discrimination claim and employee's termination, and termination was based on legitimate, nondiscriminatory factors. *Gladysiewski v. Allegheny Energy*, 398 F. App'x 721 (3d Cir. 2010).
- In case of first impression, obtained complete affirmance of dismissal of lawsuit alleging that client national cable operator fraudulently overcharged customers for network upgrades to cable systems; ruling in client's favor constituted first decision anywhere in the country to hold that "filed-rate" doctrine applies to regulated rates for cable television service. *Crumley v. Time Warner Cable, Inc.*, 556 F. 3d 879 (8th Cir. 2009).
- Obtained affirmance of directed verdict and reduction of judgment to \$0 against client internet service provider, where plaintiff sought over \$10 million in damages, on ground that plaintiff did not become party to contract with client simply by purchasing all shares of corporation with whom client had originally contracted, and therefore plaintiff could not hold client liable for breach of contract or conversion of corporate property. *Bizrocket.com, Inc. v. Interland, Inc.*, 274 F. App'x 776 (11th Cir. 2008).
- Obtained affirmance of summary judgment on behalf of multinational office equipment and supply manufacturer in litigation brought by client's utility supplier, seeking millions of dollars' worth of damages in dispute over client's obligation to pay for utilities received but improperly billed by supplier. *City of Lawrenceville v. Ricoh Electronics, Inc.*, 174 F. App'x 491 (11th Cir. 2006).
- While representing national publisher of legal reference materials, established "fraud or bad faith" standard for award of attorneys' fees under federal Lanham Act; ruling constituted first explicit determination of issue by Eleventh Circuit. *Lipscher v. LRP Publications, Inc.*, 266 F.3d 1305 (11th Cir. 2001).
- Obtained affirmance of preliminary injunction in favor of trade show organizer and promoter, defeating county's attempt to prevent client from conducting gun shows on leased county lands on ground that county's proposed lease addendum would violate client's right to engage in protected commercial speech under First Amendment. *Nordyke v. Santa Clara Cnty.*, 110 F.3d 707 (9th Cir. 1997).
- While representing television producer, established "public function" approach for evaluating whether records of a private entity are subject to Georgia version of "open records" or "freedom of information" acts common to each state; ruling

constituted first explicit determination of issue by Georgia Court of Appeal. *Hackworth v. Bd. of Educ. for City of Atlanta*, 447 S.E. 2d 78 (Ga. Ct. App. 1994).

BANKRUPTCY / RESTRUCTURING

Wargo French's bankruptcy and restructuring attorneys work with debtors and creditors throughout the country on Chapter 7 & 11 cases that are complex when measured by legal theories, parties, or the amount in controversy. We also represent national and local trustees and receivers, high-net worth individuals and companies in all aspects of bankruptcy procedure and litigation, including, claim and avoidance litigation, actions to except debts from discharge, actions to re-characterize debts, contested confirmation hearings and Section 363 purchases and sales.

Our model affords clients something unique: The resources necessary to provide effective representation in the most complex matters, without sacrificing the efficiency that has permitted us to be engaged in smaller matters that nonetheless require sophisticated counsel.

The following matters are indicative of the types of restructuring & bankruptcy matters successfully handled by Wargo French attorneys:

- Represented an international life settlement company, resolving 1000s of claims from investors across the globe, resulting in a confirmed Chapter 11 Plan.
- Represented one of the largest national independent mortgage originators involving an excess of \$11 billion in claims against multiple Fortune 500 companies.
- Represented one of the largest national home builders in over 1,800 avoidance action lawsuits seeking over \$50 million.
- Represented an American boxing promoter in multiple litigation actions against professional boxers.
- Represented the receiver of a property and casualty insurer in the investigation and prosecution of directors and officers litigation, and associated insurance coverage litigation and appeals.
- Represented the Defendant in the trial of a fraudulent transfer lawsuit seeking in excess of \$50 Million.

CLASS AND COLLECTIVE ACTION LITIGATION

Wargo French attorneys have a long history of successfully handling class actions filed in state and federal courts across the country. Our attorneys have represented clients in virtually every type of class action case, including matters involving insurance, consumer protection, fraud, RICO, Fair Labor Standards Act, Telephone Consumer Protection Act, Fair Debt Collection Practice Act, Truth in Lending Act, toxic tort, environmental, products liability, securities and breach of contract.

The following matters are indicative of the types of class action matters successfully handled by Wargo French attorneys:

- Supervising counsel for Fortune 50 retailer in consumer class action pending in Tennessee and hundreds of related individual cases pending across the country. *Ajose v. Interline Brands, Inc. et al.*, Case No. 14-CV-1707 (M.D. Tenn. 2014).
- Defending major chemical company in toxic tort class action in Florida. Settled case on a class basis with no “out-of-pocket” payment made by client following depositions of named plaintiffs, putative class members and experts. *Dabney, et al. v. Taminco US, Inc.*, Case No. 3:15-cv-533 (N.D. Fla. 2015).
- Defended financial services company in Fair Debt Collection Practices Act class action in Florida. Settled case on individual basis for a nominal payment following extensive briefing on motion to dismiss. *Shannon v. Select Portfolio Servicing, Inc.*, Case No. 8:16-cv-03537 (M.D. Fla. 2016).
- Defended financial services company in Telephone Consumer Protection Act class action in West Virginia. Settled case on individual basis for a nominal payment following preparation of comprehensive motion to dismiss. *Hess v. Anderson Fin. Servs., LLC*, Civil Action No. 3:16-cv-137 (N.D. W.Va. 2016).
- Defended a major cable television company in a consumer fraud class action in Minnesota. In a ruling of first impression, obtained a complete dismissal of all of plaintiff’s claims based on the application of the filed rate doctrine. Dismissal was upheld on appeal by the United States Court of Appeals for the Eighth Circuit. *Crumley v. Time Warner Cable, Inc.*, 554 F. Supp.2d 933 (D. Minn. 2008), *aff’d. per curiam*, 556 F.3d 879 (8th Cir. 2009). These decisions were the first in the country to hold that the filed rate doctrine applies to regulated rates for cable television service.
- Represented major consulting company in class action brought under Americans with Disabilities Act and ERISA by former consultant. Prevailed on motion to dismiss prior to discovery or class certification. *Craig v. BearingPoint, Inc.*, Civ. Act. No 1 08-CV-2476 (N.D. Ga. Dec. 10, 2008).
- Represented a major insurance company in action brought by a previously certified class of individuals who had taken an assignment of certain claims for indemnity against

insurer from a third party as part of a class action settlement in a related action. Convinced the court not to exercise supplemental jurisdiction over the claims asserted by the class against insurer and obtained complete dismissal of the action. *Veal v. Voyager Prop. and Cas. Ins. Co.*, Case No. 8:04-CV-323T27MSS, 2008 WL 2512528 (M.D. Fla. June 20, 2008).

- Represented regional shipping company in antitrust class action involving allegations of price fixing relating to fuel surcharges. Obtained voluntary dismissal of claims asserted by plaintiffs against client. *In re: LTL Shipping Servs. Antitrust Litigation*, Civil Action No. 1:08-MD-1895-WSD (N.D. Ga. 2008).
- Represented mortgage bank in a breach of contract and breach of fiduciary duty class action brought by borrowers who claimed that the bank unlawfully required its borrowers to maintain excessive escrow deposits for the payment of taxes and insurance. Obtained judgment on the pleadings and a full dismissal of all claims prior to any discovery or class certification. *Crutchfield v. Independence One Mortgage Corp.*, Civil Action No. 2006-CV-115542 (Superior Court of Fulton County, Atlanta, Georgia, Aug. 13, 2007).
- Defended an international web hosting company in a class action regarding alleged violations of the Telephone Consumer Protection Act and defeated plaintiffs' motion to certify class. *Pair Networks, Inc. v. Interland, Inc.*, Case No. GD-01-23240 (Court of Common Pleas of Allegheny County, Pittsburgh, Pennsylvania, Feb. 5, 2007).
- Retained to represent major personal computer manufacturing company after a class action was conditionally certified against the client pursuant to the Fair Labor Standards Act. After a full certification hearing, convinced the court to decertify the class. *Smith v. Micron Elec., Inc.*, Case No. CV-01-244-S-BLW, 2005 WL 5336571 (D. Idaho Feb. 4, 2005).
- Defeated a motion for class certification and obtained voluntary dismissal of all claims asserted by plaintiff on behalf of the putative class in a proceeding against debt collector brought under the Fair Debt Collection Practices Act. *Sawyer v. Risk Mgmt. Alternatives, Inc.*, Case No. 1:02-cv-1546-LJM-VSS (S.D. Ind. March 2, 2004 and July 7, 2004).
- Defended a major cable television company in a multi-million dollar fraud and deceptive trade practices class action. Obtained a complete dismissal of all of plaintiffs' claims prior to any discovery or class certification. *Burnett v. Time Warner, Inc.*, Case No. 03-1905-3 (Chancery Court of Shelby County, Memphis, Tennessee, Feb. 27, 2004).
- Defended a debt collector in two class actions brought under the Fair Debt Collection Practices Act. Obtained judgment as a matter of law in favor of debt collector, prior to class certification or discovery, of all of the claims asserted by plaintiffs on behalf of the putative classes. *Olson & Schultz v. Risk Mgmt. Alternatives, Inc.*, Case Number 02 C 5750/02 c 5918 (consolidated) (N.D. Ill. June 13, 2003), *aff'd*, *Olson v. Risk Mgmt. Alternatives*, 366 F.3d 509 (7th Cir. 2004).

- Defended a major cable television company in a multi-million dollar Fair Labor Standards Act class action. Obtained summary judgment, after bifurcated discovery, with respect to all of the named plaintiff's claims prior to class certification. *Fields v. AOL Time Warner, Inc.*, 261 F. Supp. 2d 971 (W.D.Tenn. 2003).
- Defended an international web hosting company in a Fair Labor Standards Act class action. Obtained a dismissal, prior to class certification or discovery, of all of the claims asserted by plaintiff on behalf of the putative class. *Thomas v. Interland, Inc.*, Civil Action No. 1:02-CV-3175-CC, 2003 WL 24065651 (N.D. Ga. Aug. 25, 2003).
- Defended a multinational company in a securities class action. Obtained a complete dismissal of all claims prior to class certification. *Walker v. Shield Acquisition Corp.*, 145 F. Supp. 2d 1360 (N.D. Ga. 2001).
- Defended a life insurance company in a breach of contract class action. Obtained summary judgment with respect to all of plaintiff's claims prior to class certification. *Price v. Union Sec. Ins. Co.*, Civil Action No. 98VS147158 (State Court of Fulton County, Atlanta, Georgia, June 22, 2000).
- Defended a Fortune 50 company in a multi-million dollar fraud and breach of contract class action. Obtained a complete dismissal of all of plaintiff's claims prior to class certification. *Deerskin Trading Post, Inc. v. United Parcel Serv. of Am.*, 972 F. Supp. 665 (N.D. Ga. 1997).
- Defended a chemical manufacturer in a class action brought by local residents arising from various chemical releases. Defeated motion for class certification and obtained voluntary dismissals of all of plaintiffs' claims. *Greene v. Kemira, Inc.*, Civil Action No. 94-0540-G (State Court of Chatham County, Savannah, Georgia 1996).
- Represented major network in RICO class action filed against multiple defendants. Obtained extremely favorable settlement prior to class certification. *Sikes v. USA Networks*, Civil Action No. CV692-147 (S.D. Ga. 1993).
- Defended a major insurance company in a multi-million dollar fraud class action. Opened a default previously entered against the client and obtained summary judgment with respect to all of plaintiff's claims. *Boynton v. State Farm Mut. Auto. Ins. Co.*, 207 Ga. App. 756, 429 S.E.2d 304 (1993).
- Represented major insurance company in fraud and breach of contract class action. Filed an early summary judgment motion that forced plaintiff to abandon the case. *Young v. State Farm Mut. Auto. Ins. Co.*, Civil Action No. D96206 (Superior Court of Fulton County, Atlanta, Georgia, 1992).

COMMERCIAL AND REAL ESTATE FINANCE

Wargo French attorneys advise private and institutional lenders and borrowers through each phase of the commercial lending process and across various lending platforms. Our attorneys have extensive experience in structuring and negotiating middle market asset-based loan transactions, including multi-bank syndicated loans, term loans, committed revolving credit facilities, lines of credit, and senior and mezzanine financings. Our attorneys have experience representing lenders in private banking transactions, loans to non-profit institutions, tax exempt and taxable bond financing transactions, as well as loans to borrowers in the healthcare, pharmaceutical, private equity, venture capital, and technology industries, among others. Further, our attorneys have worked with private and institutional lenders and borrowers on a wide range of real estate financings, including loan originations, modifications, refinances, purchase money financings and construction financings, as well as SBA 7(a) and 504 loans for office, industrial, retail, residential, condominium, hotel, marina and mixed-use properties. Our attorneys have also acted as local counsel on multi-state loan transactions.

Wargo French's services include:

- Advising lenders and borrowers in connection with multi-million dollar syndicated loans, term loans, committed revolving credit facilities, lines of credit, and senior and mezzanine financings.
- Representing lenders and borrowers in commercial asset-based loan transactions.
- Representing lenders and borrowers in business acquisition financings.
- Representing lenders and borrowers in real estate loan originations, modifications, refinances, purchase money financings and construction financings.
- Preparing and structuring intercreditor and participation agreements between lenders.
- Preparing and structuring collateral and security agreements.
- Structuring, documenting, and closing commercial lending transactions, including SBA 7(a) and 504 loans, and conventional deals.
- Drafting and negotiating term sheets, loan documents, legal opinions, corporate authority documents and other closing documents on behalf of lenders and borrowers.
- Performing due diligence review of information pertaining to borrowers and guarantors, including corporate governance documents.

- Performing due diligence review of title, survey and other real estate due diligence, including zoning reports and environmental site assessments.

COMMERCIAL REAL ESTATE

Wargo French's real estate and construction practice is national in scope. Wargo French attorneys have extensive experience advising clients with respect to a broad range of commercial real estate and construction transactions throughout the United States. Such transactions include the planning, acquisition, disposition, leasing, financing, construction and development of various retail, industrial, office, hotel, multi-family housing and mixed-use projects. Our attorneys represent many national and international retailers, developers, lenders and other commercial and industrial owners and tenants. Further, our attorneys have worked with clients on transactional matters involving condominiums, cooperatives, multi-parcel assemblages, environmentally impacted sites, tax increment financing and other complex development transactions.

Wargo French's services include:

- Preparing, reviewing and negotiating purchase and sale agreements, loan documents, easements, licenses, restrictive covenants, operating agreements and closing documents.
- Preparing, reviewing and negotiating all types of leases (including retail, office, and industrial leases) from both the landlord and tenant's perspective.
- Preparing, reviewing and negotiating asset purchase agreements, leases, subleases and ancillary documents related to the acquisition by a franchisor of multiple franchisee operated stores, or the disposition to a franchisee of multiple franchisor operated stores.
- Reviewing all matters affecting title to real estate and assisting clients with title clearance matters and title claims.
- Assisting clients in obtaining and reviewing title reports, boundary and ALTA/ACSM surveys, environmental site assessments and other aspects of due diligence.
- Preparing, reviewing and negotiating construction contracts and site development agreements.
- Preparing, reviewing and negotiating architect, engineer and other consultant agreements including design-build and engineering, procurement and construction agreements.
- Advising clients with respect to the construction process including permitting, zoning, mechanic's liens and project close out issues.
- Advising clients with respect to eminent domain, land use and zoning issues.

COMPLEX COMMERCIAL LITIGATION

Wargo French has been entrusted by some of the nation's most successful companies to handle their complex litigation matters on a wide range of issues. Our attorneys routinely handle complex matters in state and federal trial and appellate courts across the country. Wargo French attorneys work closely with clients to aggressively and efficiently resolve disputes in a manner consistent with the client's goals.

The following matters are indicative of the types of complex commercial matters successfully handled by Wargo French attorneys:

- Represented major insurance company in multiple arbitration and litigation proceedings pending in Delaware and Maryland involving, among other claims, a \$94 million claim asserted against our client. Obtained a multimillion dollar settlement in favor of our client following extensive discovery and briefing on the merits.
- Represented major cable television provider in tortious interference and negligent misrepresentation case brought by client's vendor. After extensive discovery, obtained full summary judgment with respect to all claims asserted against client.
- Represented whistleblowers in a *qui tam* lawsuit alleging that a for-profit education company had defrauded the United States Government out of hundreds of millions of dollars in Title IV funds. Aggressively pursued the litigation over eight years, including appeals. Ultimately reached a settlement with the publicly-traded defendant resolving the matter for a payment of \$32 million.
- Defended animal pharmaceutical company in patent litigation in which patent holder sought to have client held in contempt of court due to alleged violation of injunction against infringement. Obtained denial of motion for contempt following bench trial on allegations of contumacious conduct.
- Retained by pharmaceutical company after finding of contempt for alleged violation of injunction against patent infringement to replace lead counsel and try damages and sanctions phase of case. Obtained favorable settlement and license for client following extensive damages discovery.
- Represented major pharmaceutical company in patent infringement and trade secrets misappropriation case relating to drug delivery systems. Obtained favorable settlement for client following depositions of top executives for opposing party.
- Represented baby food manufacturer in litigation against packaging company and package manufacturer seeking recovery for damages sustained as a result of product recall. Defeated multiple motions to dismiss and obtained favorable settlement for client.
- Represented financial institution in three related cases pending in federal court in New York, state court in California and federal court in Georgia concerning allegations of

fraud, usury and breach of contract. Obtained summary judgment in favor of client and defeated cross-motion for summary judgment filed against client based on fraud, usury and breach of contract in federal court proceedings in Georgia. The United States Court of Appeals for the Eleventh Circuit affirmed the decision against the plaintiff in favor of our client.

- Defended multinational office equipment company against multi-million dollar breach of contract and unfair and deceptive trade practices claims in the Middle District of North Carolina. Obtained summary judgment on unfair and deceptive trade practices claim, and reached favorable settlement after extensive pre-trial hearing on *Daubert* motion to exclude plaintiff's lost profits expert.
- Defended publicly traded technology company against \$144,000,000 fraud claim brought by former supplier of company. Obtained complete dismissal of all claims on summary judgment.
- Represented international food conglomerate in litigation in Florida and New York state courts. Obtained one of the largest non-party sanctions awards in New York history against officers of the defendant.
- Obtained \$7,000,000 jury verdict in federal court for former majority shareholders of publicly traded company on claims of fraud and breach of contract.
- Represented a publicly traded company in multi-million dollar bad faith denial of coverage litigation and obtained summary judgment finding coverage available, which ultimately led to a favorable settlement.
- Represented financial institution in litigation pending in state court in New York based on claims of libel, libel per se, interference with prospective business relations, interference with economic relations against Internet user and Internet Service Provider to obtain information concerning the Internet user's identity. Handled similar matters pending in state court in Georgia concerning Internet message board postings to identify former employees and others engaged in misconduct.
- Immediately responded to an ex parte temporary restraining order obtained by Federal Trade Commission in Texas federal court. Obtained *vacatur* of order within 8 days of client's business being shut down by FTC order.
- Defended a multinational office equipment and supply manufacturer in litigation brought by the manufacturer's utility supplier seeking over \$1.5 million in damages in dispute over provision of natural gas. Obtained summary judgment in favor of manufacturer in the United States District Court for the Northern District of Georgia, which was affirmed by the Eleventh Circuit Court of Appeals.

- Represented former shareholders of closely-held healthcare company against acquiring public company concerning allegations of fraud and breach of contract in defendant's failure to make good on pledge to develop ambulatory surgical centers across the country.
- Represented foreign chemical company in action against major domestic chemical company involving claims of fraud, breach of contract, trade secrets misappropriation and unfair competition. Defeated comprehensive motion to dismiss and effort to stay discovery. Obtained a favorable settlement for the client.
- Represented an international business class web hosting company in numerous litigation matters across the United States, including defending securities claims and enforcing arbitration provisions in terms of service agreements with customers, including successfully enforcing an arbitration clause entered through a "click wrap" agreement.
- Represented an international food conglomerate in federal litigation concerning a multimillion dollar computer software development project.
- Represented Internet web hosting company in breach of contract, breach of fiduciary duty, specific performance, breach of covenant of good faith and fair dealing and injunction case in federal court in Georgia, as well as related litigation in federal court in New York. Defeated opposing parties' request for preliminary injunction and obtained full dismissal of three of the six counts in Georgia litigation. Obtained award of sanctions against opposing party based on discovery abuses. Negotiated favorable settlement of both the Georgia and New York litigation to fully and finally resolve matter.
- Defended major cable television company in a consumer fraud class action in Minnesota. In a ruling of first impression, obtained a complete dismissal of all of the plaintiff's claims based on the application of the filed rate doctrine. Dismissal was upheld on appeal by the United States Court of Appeals for the Eighth Circuit. These decisions were the first in the country to hold that the filed rate doctrine applies to regulated rates for cable television service.
- Represented regional shipping company in antitrust class action involving allegations of price fixing relating to fuel surcharges. Obtained voluntary dismissal of claims asserted by plaintiffs against client.
- Served as national coordinating litigation counsel for a major carpet manufacturer in connection with its withdrawal from over 100 commercial leases across the country.

CREDITOR'S RIGHTS AND BANKRUPTCY

Wargo French attorneys have extensive experience representing banks, financial institutions and other secured and unsecured creditors in bankruptcy, litigation and receivership matters throughout the United States. Our attorneys defend and prosecute numerous litigation matters in federal bankruptcy courts throughout the United States. Further, our attorneys handle various receivership matters.

The following matters are indicative of the types of creditor's rights and bankruptcy matters successfully handled by Wargo French attorneys:

- Represented international office equipment lessor in bankruptcy matters throughout the United States.
- Represented a national telecommunications company in bankruptcy matters throughout the United States.
- Represented numerous commercial landlords in bankruptcy proceedings pending throughout the United States.
- Represented The Official Committee of Unsecured Creditors in a multimillion dollar bankruptcy proceeding for retail stores with outlets throughout the United States.
- Defended various lenders for claims arising under Article 3 and Article 4 of the Uniform Commercial Code.
- Represented receiver appointed to marshal the assets of several defendant corporations.
- Obtained ex-parte injunctive relief and appointment of receiver over assets of insurance agency in dispute over calculation of premiums with major insurance company.
- Prosecuted preference portfolios on behalf of a bankruptcy trustee for a nationwide family steakhouse chain in Chapter 7 bankruptcy.
- Prosecuted litigation for the collection of millions of dollars of receivables owed to bankruptcy estates.
- Represented liquidation trustee in his pursuit of litigation claims previously held by debtor company.

EMPLOYMENT LITIGATION AND PREVENTATIVE SERVICES

Wargo French's employment practice is nationwide in scope, with our attorneys having represented clients in every region of the country. Our attorneys provide our clients with a full complement of employment litigation services. From class action wage and hour and employment discrimination litigation to single-plaintiff employment claims, we take pride in working with our clients to anticipate and efficiently resolve the employment issues that arise in today's challenging workplace environment.

Our experienced employment litigators aggressively defend client interests in federal and state courts, as well as before the Equal Employment Opportunity Commission, the Department of Labor, the National Labor Relations Board, and other state and federal agencies. We have particular expertise in class and collective action wage and hour litigation, having successfully handled over 20 class/collective action wage and hour lawsuits in the past several years.

Through our preventive services program, Wargo French attorneys assist clients in implementing policies and programs that allow for the early detection and resolution of potential employment disputes. Our attorneys ensure that clients take full advantage of the legal protections available to employers by providing practical counseling and advice on day-to-day employment issues, drafting and reviewing employee handbooks and policies, and providing training in all areas of employment law.

Additional Practice Group Information

Employment Litigation

Wage and Hour Litigation

Preventive Services

Employment Litigation

One of the trademarks of our employment litigation practice is our practical and efficient approach to litigation. We do not believe in applying a “cookie-cutter” approach to any lawsuit. Instead, each case stands on its own, and we take pride in identifying strategies that allow for early dismissal or most effectively position the case for summary judgment or an advantageous settlement. We litigate every matter in the most efficient and cost-effective manner possible, consistent with providing the highest standards of legal service to our clients. Matters routinely handled by our employment group include:

- Class and Collective Action Employment and Wage and Hour Litigation
- Employment/Disability Discrimination Litigation
- Harassment Litigation
- Family and Medical Leave Act Complaints and Litigation
- DOL Wage and Hour Complaints and Litigation
- Trade Secret/Restrictive Covenant Litigation
- EEOC Charges
- DOL (OSHA) Charges

The following matters are indicative of the types of employment litigation matters successfully handled by Wargo French attorneys:

- Representing major pharmaceutical company in multiple litigation matters against former employees who breached their restrictive covenants and misappropriated client’s trade secrets for the purpose of selling competitive products to client’s customers. Obtained injunctive relief to prevent further breaches of restrictive covenants and use or misappropriation of client’s trade secrets.
- Obtained preliminary injunction enforcing non-competition and non-solicitation agreements after conducting a live evidentiary hearing against a client’s former employee in case pending in the District Court for the Northern District of Georgia.
- Represented national cable telecommunications company in numerous lawsuits throughout the country, with an emphasis on class and collective actions brought under state and federal wage and hour laws.
- Represented national hotel chain in various employment actions, including multiple race and sex discrimination lawsuits in federal courts in Georgia and Florida. Obtained summary judgment or nuisance value settlement in all cases.
- Defended major talent agency in class action age discrimination lawsuit first filed in federal district court and then in the California Superior Court. Negotiated favorable settlement of claims.

- Obtained summary judgment on after-acquired evidence claim and on counterclaims for breach of fiduciary duty and breach of contract against former in-house attorney of one of the nation's largest power companies where company learned that attorney had removed, without authorization, privileged and confidential documents prior to termination.
- Represented national insurance company in a race discrimination/retaliation claim in the Northern District of Georgia. Obtained dismissal of the race discrimination claim on a Motion for Judgment on the Pleadings and settled the retaliation claim for nuisance value.
- Represented large internet service provider in action for theft of trade secrets by former executive. Obtained injunction in foreign court within four days of discovery of misappropriated trade secrets.
- Represented distribution company and individual defendants in dispute alleging tortious interference and breach of restrictive covenants. Successfully defended clients against threatened enforcement of non-competition agreement.
- Represented international office equipment company in a Lanham Act false advertising and restrictive covenant case filed against a former employee in federal district court in West Virginia. Case settled with offending parties agreeing to pay attorneys' fees and abide by the terms of the restrictive covenant.
- Defended distribution company and individual defendants against multi-state lawsuits alleging non-compete, computer theft, trade secret and civil RICO violations. Negotiated de minimis settlement of all claims and preserving clients' right to compete in industry.
- Represented leading data storage company in trade secret/non-competition litigation in federal district court in Georgia. Defeated effort to obtain injunctive relief against client and negotiated a favorable settlement.
- Represented national telephone and internet communications company in numerous cases throughout the country involving actual or threatened misappropriation of trade secrets, employing raiding and enforcement of non-solicitation and confidentiality agreements.
- Defended numerous clients before Equal Employment Opportunity Commission and state Fair Employment Practices agencies against charges of discrimination, harassment and retaliation.

Wage and Hour Litigation

Our employment practice group has particular expertise in the area of wage and hour litigation, particularly in the class and collective action context. Over the past few years, the employment group has handled over 20 federal and state wage and hour class and collective actions. We have successfully obtained dismissal of many of the lawsuits on first motion, obtained summary judgment in numerous cases and have settled many of the other lawsuits for nominal amounts on an individual plaintiff basis. The key to our success is understanding that class and collective actions are frequently won long before the case ever proceeds to the certification phase. Because certification drastically raises the stakes of the litigation, we pride ourselves on being particularly creative and aggressive in identifying and asserting meritorious dispositive motions prior to the certification phase.

The following matters are indicative of the types of wage and hour matters services successfully provided by Wargo French attorneys:

- Defended national cable telecommunications company in numerous cases in state and federal court in California alleging violations of California labor code provisions regarding, among other things, minimum wage, overtime, meal and rest breaks and wage statements. Obtained dismissal on first motion or summary judgment in numerous cases prior to class certification, while negotiating nominal settlements on an individual basis in other matters. *See, e.g., Corona v. Time Warner Cable Inc., et. al.*, No. 2:13-cv-05521-PSG-VBK (C.D. Cal. Oct. 16, 2014); *Deleon v. Time Warner NY Cable LLC*, No. CV10-2468 AG (RNBx) (C.D. Cal. Aug. 31, 2011); *Fregoso v. Time Warner Cable Inc., et al.*, CV 10-1668 AG (RNBx) (C.D. Cal. May 23, 2011); *Durazo v. Time Warner Cable LLC, et al.*, No. CV10-04496 AG (RNBx) (C.D. Cal. Apr. 27, 2011); *Harding v. Time Warner, Inc.*, No. 09CV1212-WQH-WMC, 2010 WL 457690 (S.D. Cal. Jan. 26, 2010).
- Retained by major personal computer sales company after Fair Labor Standards Act (“FLSA”) class action was conditionally certified against company. Our team took lead role in briefing and oral argument against plaintiffs’ motion for final certification, winning that motion and decertifying class in matter of first impression in District of Idaho. *See Smith v. Micron Electronics, Inc.*, Case No. CV-01-244-S-BLW (D. Idaho Feb. 4, 2005).
- Defended Fortune 50 company in multimillion dollar FLSA class action. Obtained summary judgment prior to class certification in matter of first impression in Sixth Circuit regarding applicability of outside salesperson exemption under FLSA. *See Fields v. AOL Time Warner, Inc.*, 261 F. Supp. 2d 971 (W.D. Tenn. 2003).
- Represented international web hosting company in class action brought under FLSA alleging time shaving. Obtained dismissal with prejudice of all class action claims on mootness grounds prior to class certification process in matter of first impression in Eleventh Circuit. Prior to dismissal of class claims, obtained

emergency relief prohibiting named plaintiff from contact with putative class members and other company employees. *See Thomas v. Interland, Inc.*, Civil Action No. 1:02-CV-3175-CC, 2003 WL 24065651 (N.D. Ga. Aug. 25, 2003).

- Represented international consulting company in class action wage and hour litigation in the District of Massachusetts. Successfully bifurcated case to initially argue applicability of FLSA exemption to individual plaintiff and negotiated favorable settlement of individual plaintiff's claims, terminating all class issues as part of individual settlement.

Preventive Services

Through the firm's preventive services program, Wargo French attorneys assist clients in implementing policies and programs that allow for the early detection and resolution of employment disputes. The firm also ensures that its clients take full advantage of the legal protections available to employers by:

- Providing Counseling and Advice on Day-to-Day Employment Issues
- Drafting and Reviewing Employee Handbooks and Policies
- Auditing Employment Practices and Wage and Hour Compliance
- Providing Training in All Areas Of Employment Law, including:
 - Harassment
 - Proper Hiring, Discipline And Discharge Techniques
 - FMLA And ADA Compliance
 - Workplace Violence

The employment group also assists clients with:

- Executive compensation
- Employment and severance agreements
- Layoffs and related WARN issues
- Employment issues related to mergers and acquisitions

ENGINEERING AND CONSTRUCTION

Wargo French is well positioned to assist companies operating in the engineering and construction industry with their legal needs. From contract preparation and review to complex litigation, the attorneys at Wargo French have decades of experience helping owners, architects, engineers and contractors achieve their desired legal results.

Indeed, the Wargo French Construction Team supports construction clients from project inception through project completion and beyond. Wargo French is prepared to help with project planning, licensing, financing, contract preparation and analysis, project management advisement, dispute negotiation and resolution, mediation, arbitration, and litigation through trial and appeals. The firm's capabilities also include representation during the government contracting process, specifically contesting and defending government contract awards.

The attorneys at Wargo French have represented owners (including public owners, private owners, and PPP's), developers, architects, engineers, general contractors, subcontractors, material suppliers, and sureties. The following list is a summary of several representative matters handled by Wargo French attorneys:

- Represented large engineering/program management firm in a \$150 million dispute involving a \$1 billion school construction program in the metropolitan Atlanta area.
- Represented an affiliate of a national pension fund/owner in a series of disputes concerning a \$250 million cost overrun relating to the development, design and construction of a four-star resort hotel and convention center in south Florida.
- Represented the majority owner of a 249 MW thermal complex (coal and fuel oil plants) in Bahia Las Minas, Colon, Panama, regarding design and construction defect and delay claims against an EPC contractor.
- Represented a U.S. affiliate of a Swedish engineering firm in an eleven-week arbitration hearing concerning claims relating to the design and construction of a low-level radioactive waste processing facility in Tennessee.
- Represented a public District/owner in a \$40 million dispute concerning delay claims arising from the design and construction of a seventeen mile bridge across the Chesapeake Bay.
- Represented the public owner of a pumped-storage hydroelectric facility in an international arbitration proceeding before the Thai Arbitration Institute.
- Represented a Swedish engineering firm in a dispute relating to the design and construction of an anaerobic wastewater treatment plant in Alaska.

- Represented the public owner in a dispute involving claims arising from the design and construction of an airport terminal expansion project in Florida.
- Represented subcontractor in a lawsuit against a project owner regarding the general contractor's failure to pay subcontractor and failure to obtain a valid payment bond.
- Represented successful bidder in defense of a multibillion-dollar government contract award.
- Advised a nonresident contractor regarding licensing and registration requirements for performing construction work on a multimillion-dollar project in Georgia.
- Advised refrigeration contractor regarding licensing requirements for conditioned air and general contractor licensing requirements.
- Advised an international subcontracting company in a matter regarding utility contractor licensing and compliance with Georgia's Nonresident Contractor's Act.
- Defended a high-end general contracting firm against summary judgment claim in complex construction litigation case by lender's successor-in-interest seeking to foreclose construction liens and defense of contractor in separate action involving enforcement of statutory construction liens (Florida)
- Defended subcontractor in federal court action by lender-developer seeking indemnification for liability on construction and design defect claims including breach of implied warranties and building code violations (Florida)
- Represented general contractor and its qualifying agent in arbitration proceeding involving claims by owners against contractor and its qualifying agent, individually, for misappropriation of construction funds, and for claims against qualifying agent, individually, for fraudulent lien and breach of contract (Florida)
- Handled aspects of representation of developer in bid protest litigation alleging claims for failure to comply with Federal, State, and local competitive bidding statutes or procurement laws (Florida)
- Defended tenant against mechanics' liens claims totaling almost \$3 million for commercial properties located in California, Florida and Illinois, with favorable results
- Prosecuted breach of contract and fraud claims on behalf of international clothing and accessories retailer tenant against general contractor for failure to pay subcontractors on commercial properties

FINANCIAL SERVICES LITIGATION

Wargo French attorneys have significant experience representing financial services companies and professionals. We represent our financial services clients in a myriad of commercial litigation and arbitration proceedings. We have extensive experience litigating matters involving consumer protection issues (such as Truth in Lending Act violations), mortgage and foreclosure issues, credit card and auto finance issues, breaches of contract, unfair and deceptive trade practices, successor liability claims, fiduciary duty issues, restrictive covenants and employment-related disputes.

The following matters are indicative of the types of financial services matters successfully handled by Wargo French attorneys:

- Defended financial institutions in numerous actions brought by borrowers and consumer account holders asserting violations of the Truth In Lending Act (“TILA”), Real Estate Settlement Procedures Act (“RESPA”) and Regulation Z, the Fair Credit Reporting Act (“FCRA”), the Fair Debt Collection Practices Act (“FDCPA”), the Telephone Consumer Protection Act (“TCPA”), the Fair Credit Billing Act (“FCBA”), and various other federal and state consumer protection statutes, including California Homeowners’ Bill of Rights and Florida Consumer Collection Practices Act. In each matter, obtained early dismissal on the pleadings, summary judgment, or favorable settlement for the client.
- Defended lenders and national financial services organizations in actions with borrowers asserting virtually any type of mortgage-related claims, including allegations of wrongful foreclosure, loan modification disputes, misapplication of payments, improper application of lender-placed insurance and other escrow account issues, lack of standing, slander to title, breach of contract, fraud, promissory estoppel and state mortgage statute violations.
- Successfully briefed and argued numerous appeals in various state and federal appellate courts on behalf of client financial services organizations, achieving full affirmation of lower court judgment or dismissal via motion (where client acted as appellee or respondent), reversal (where client acted as appellant or petitioner), or favorable settlement. Successfully opposed numerous motions for *en banc* rehearing as well as several petitions for further review to state supreme court.
- Upon certification of question to Georgia Supreme Court regarding whether holder of security deed in real property was required to also hold underlying debt to foreclose upon security interest, obtained a ruling in favor of multi-national financial institution, clarifying state foreclosure statute requirements and allowing client to engage in non-judicial foreclosure proceedings on behalf of third-party debt holders without undergoing potentially massive task of re-assigning security deeds on hundreds of thousands of properties.

- Represented lender in issue of first impression before Georgia Supreme Court and obtained favorable decision holding mortgage borrowers lacked standing to challenge transfer of security deed on mortgaged property and limiting ability of future claimants to do same.
- Defended financial services company in Fair Debt Collection Practices Act class action in Florida. Settled case on individual basis for a nominal payment following extensive briefing on motion to dismiss.
- Defended financial services company in Telephone Consumer Protection Act class action in West Virginia. Settled case on individual basis for a nominal payment following preparation of comprehensive motion to dismiss.
- In case of first impression in Florida, represented subordinate lienholder on appeal from order distributing surplus proceeds following foreclosure of real property. Prevailed on argument that surplus claim was timely filed within sixty days of foreclosure “sale,” where “sale” was properly defined as date title to property was ultimately conveyed rather than date of foreclosure auction. Successfully opposed motions for rehearing and rehearing *en banc*.
- Won trial against borrower’s claims of wrongful foreclosure in the Superior Court of the State of California, County of Alameda.
- Represented mortgage bank in a breach of contract and breach of fiduciary duty class action brought by borrowers who claimed that the bank unlawfully required its borrowers to maintain excessive escrow deposits for the payment of taxes and insurance. Obtained judgment on the pleadings and a full dismissal of all claims prior to any discovery or class certification.
- Represented national financial services organization on appeal from denial of motion for attorneys’ fees following voluntary dismissal of complaint. Prevailed after successfully arguing that law of the jurisdiction did not permit award of “prevailing party” attorneys’ fees when dismissal was filed for strategic reasons unrelated to the merits of the lawsuit. Successfully opposed motions for rehearing, rehearing *en banc*, and certification of conflict to Florida Supreme Court.
- Represented national financial services organization on appeal from judgment of dismissal following successful demurrer to complaint, where plaintiffs had alleged that client had improperly securitized home loan. Despite conflict of authority among California appellate courts on issue, prevailed after successfully arguing that cases finding against plaintiff were properly decided. Successfully opposed petition for review to California Supreme Court.
- Represented national financial services organization on appeal from judgment of dismissal following successful demurrer to complaint, where plaintiffs had alleged that client had breached oral contract to negotiate a loan modification in

good faith. Prevailed after successfully arguing that purported oral contract was unenforceable “agreement to agree,” rather than enforceable promise to negotiate over future terms of contract.

- Defended and prosecuted actions on behalf of financial institutions involving issues of title to property and title priority, including actions against title insurers when coverage is denied and actions to expunge fraudulently recorded documents.
- Represented national financial services organizations and lenders in general commercial matters, including breach of contract, fraud, negligence, breach of fiduciary duty, deceptive trade practices, intentional infliction of emotional distress, defamation, successor liability, identity theft claims, Uniform Commercial Code and licensing disputes.
- Defended financial institutions in actions involving issues of preemption under the Home Owners Loan Act (“HOLA”) and the National Banking Act (“NBA”).
- Represented financial institutions in actions involving forged checks and other negotiable instruments and the improper processing of negotiable instruments pursuant to Article 3 of the Uniform Commercial Code and recognized industry practices.
- Defended financial institutions in disputes with employees and independent contractors.

GENERAL CORPORATE AND SECURITIES

Wargo French's corporate practice is national in scope. Our attorneys advise entities, including corporations, nonprofit corporations, joint ventures, limited liability companies, sole proprietorships, partnerships and other business associations on general corporate and partnership issues, marketing and strategic business issues, complex business transactions, mergers and acquisitions and public and private securities offerings. Our attorneys assist established and emerging businesses with their formation, ongoing corporate matters, financing and development. Further, our attorneys assist corporate legal departments by working directly with corporate business personnel to negotiate contracts and to develop corporate business opportunities.

Wargo French's services include:

- Advising clients on strategic initiatives and joint ventures, including, without limitation, advising clients on new product development and expansion into new markets and industries.
- Advising clients on purchase agreements and related documentation for such transactions, including, without limitation, advising both privately-held and publicly-traded clients on acquisitions and dispositions of operational assets, real property and intellectual property.
- Advising clients regarding complex technology and commercial agreements, including, without limitation, agreements related to technology development and acquisition, product purchases, software licensing, cloud technology, software as a service offerings, and hosted solutions.
- Advising clients regarding consulting and services agreements, including, without limitation, agreements related to professional services, support services, integration and implementation services, turn-key solutions and managed services.
- Advising clients on transactional matters regarding website and mobile application development and hosting as well as assisting clients in preparing terms and conditions and privacy policies for websites and mobile applications.
- Counseling clients regarding general intellectual property matters, including, protecting intellectual property rights through trademark and copyright applications and non-disclosure agreements, licensing intellectual property and privacy and security matters. Wargo French clients include both licensors and licensees of software and other technology patents and trademarks.
- Advising corporate officers and boards of directors on various matters, including directors' and officers' fiduciary duties, officer employment contracts, director interested and conflict of interest transactions.

- Advising clients in private placements of securities, including venture capital financing. Wargo French clients include issuers, registered broker-dealers and investment advisory firms.
- Assisting clients in registering as broker-dealers and investment advisers and advising such clients regarding ongoing compliance with applicable rules and regulations.
- Advising issuers, underwriters, selling shareholders, venture capital firms and others in public and private transactions involving the offering and sale of equity securities and debt.
- Advising clients with respect to capital structures, shareholder agreements and other ownership issues, stock redemption agreements, negotiations with investors, and the development of stock-based benefit and incentive plans.
- Advising clients on developing internal programs to educate officers, directors and employees in various aspects of compliance.
- Advising corporations and their officers and directors in matters involving public disclosure and other aspects of ongoing compliance with the federal securities laws, state securities laws and the rules and regulations of NASDAQ and the New York and American Stock Exchanges.
- Assisting clients with registering offerings of securities with the Securities and Exchange Commission and state securities commission, including advising clients as to federal and blue sky law exemptions and drafting prospectuses, offering memoranda and other disclosure documents.
- Negotiating underwriting agreements and placement agent agreements, and conducting due diligence investigations.
- Assisting clients on matters relating to disclosure of material corporate developments, Regulation FD, Regulation S-P, and compliance with the reporting requirements of the Securities and Exchange Commission relating to insider trading.
- Preparing periodic reports required under the Securities Exchange Act of 1934 and assisting with compliance with the requirements relating to the disposition of restricted securities.

INSURANCE PRACTICE GROUP

Wargo French's insurance coverage attorneys, recognized by Chambers & Partners, have a broad and deep level of experience across insurance products and jurisdictions. Whether first party or third party, general liability, E&O/D&O, or P&C, and including a variety of specialty insurance products, Wargo French attorneys focus their client service on preventing and resolving disputes as efficiently as possible. Accordingly, a significant portion of Wargo French's coverage work is outside of litigation, solving problems before they occur.

Wargo French's coverage attorneys are repeatedly called on to handle high-profile, multi-million dollar coverage disputes across the country. Among some of the most recent:

- San Francisco 49ers Litigation: *First Mercury Ins. Co. v. Great Divide Ins. Co.*, 203 F. Supp. 3d 1043 (N.D. Cal. 2016) (prevailed on motion to dismiss) and *First Mercury Ins. Co. v. Great Divide Ins. Co.*, 241 F.Supp.3d 1028 (N.D. Cal. 2017) (obtained summary judgment on duty to defend despite “primary and non-contributory” policy language).
- *First Mercury Insurance Co. v. Westchester Surplus Lines Ins. Co.*, 152 F.Supp.3d 1320 (D. Or. 2016) (prevailed against Multnomah County on motion for summary judgment under Oregon’s anti-indemnity statute over \$5 million damage to Morrison Bridge).
- *San Diego Gas & Electric v. Lamorak Ins. Co.*, No. 3:15-cv-00636-WQH-JLB (S.D. Cal. filed Mar. 23, 2015) (coverage dispute over \$50 million cleanup of the San Diego Harbor).
- Defeated multi-million dollar fraud class actions against major insurance company: *Boynton v. State Farm Mut. Auto. Ins. Co.*, 207 Ga. App. 756, 429 S.E.2d 304 (1993) (obtained summary judgment with respect to all of the plaintiff’s claims); *Crannell v. State Farm Mut. Auto. Ins. Co.*, No. 92-2 26433 1 (King County, Washington, April 12, 1994) (defeated class certification); *Young v. State Farm Mut. Auto. Ins. Co.*, No. D96206 (Fulton County, Georgia, 1992) (voluntary dismissal after filing summary judgment).
- *Interland, Inc. v. Certain Underwriters at Lloyd’s, London*, No. CV-OC-0506184, (Ada County, Idaho 2006) (coverage dispute relating to wage and hour class action lawsuit).
- *Apatow v. Am. Bankers Ins. Co. of Fla.*, No. 16-198, 2016 WL 7422288 (C.D. Cal. Dec. 21, 2016) (obtained order dismissing Judd Apatow’s million dollar property insurance claim).
- *Interline Brands, Inc. v. AIG Specialty Ins. Co.*, No. 3:14-cv-0426 (M.D. Fla. filed April 14, 2014) (coordinating insurance coverage litigation and related product liability class and individual actions over \$100 million in claimed damage from toilet connector leaks).

When litigation is unavoidable, Wargo French attorneys have developed litigation strategies to reduce both risk and legal spend, even when the cases are tainted with a contentious background and allegations of bad faith. Wargo French’s attorneys have briefed and litigated virtually every significant policy term and condition, and know what works and what does not. Wargo French is able to focus the dispute on the client's best argument, efficiently maximizing leverage for favorable resolution. This is our distinction with a difference.

INTELLECTUAL PROPERTY AND TRADE SECRET PROTECTION

Wargo French attorneys have extensive experience handling intellectual property matters including protecting patents, copyrights and trademarks, enforcing confidentiality agreements, prosecuting and defending trade secret misappropriation and counseling clients on legal issues related to the emerging complexities of e-commerce and computer technologies. Our attorneys assist clients in the selection, prosecution, registration and enforcement of trademarks and service marks. Further, our attorneys have written and lectured extensively in the trade secrets area. For example, Michael S. French has served as a co-author and member of the editorial board for the American Bar Association's Trade Secret Handbook for Franchise and Distribution Companies.

The following matters are indicative of the types of intellectual property and trade secret matters successfully handled by Wargo French attorneys:

- Representing industry-leading financial services company in multiple litigation matters premised on competitors' misappropriation of clients' propriety customers list through illegal searches of driver's license databases. Obtained injunction preventing competitor from continued solicitation of customers discovered through improper means and summary judgment on competitors' trade-secret based counterclaims.
- Representing major pharmaceutical company in multiple litigation matters against former employees for misappropriation of client's trade secrets and other misconduct. Obtained injunctive relief to prevent further use or misappropriation of client's trade secrets. Obtained six-figure settlement from one of the former employees.
- Defended animal pharmaceutical company in patent litigation in which patent holder sought to have client held in contempt of court due to alleged violation of injunction against infringement. Obtained denial of motion for contempt following bench trial on allegations of contumacious conduct.
- Retained by pharmaceutical company after finding of contempt for alleged violation of injunction against patent infringement to replace lead counsel and try damages and sanctions phase of case. Obtained favorable settlement and license for client following extensive damages discovery.
- Represented major pharmaceutical company in patent infringement and trade secrets misappropriation case relating to drug delivery systems. Obtained favorable settlement for client following depositions of top executives for opposing party.
- Defended and favorably settled action brought by Julia Roberts and George Clooney for misappropriation of name and likeness against manufacturer of high-end home theatre equipment.

- Prosecuted trademark infringement action for Paramount Studios against rouge licensee, obtaining injunctive relief and a favorable settlement.
- Represented a rights holder in lawsuit against a mini-major studio for failure to pay contingent compensation on a theatrically released trilogy which generated \$3 billion in worldwide box office revenue. Obtained a favorable settlement on the eve of trial.
- Defended technology company in trademark infringement action in the United States District Court for the Northern District of California. Defeated motion for preliminary injunction and obtained ruling that plaintiff had abandoned its trademark by virtue of naked licensing.
- Defended a global, publicly-held company in a patent infringement lawsuit in the Central District of California concerning a messaging system network that converts incoming e-mails to outbound faxes.
- Represented a concrete formulator in a four week patent infringement trial in the United States District Court for the Northern District of Georgia. Obtained a jury verdict in favor of the patent holder and a finding of willful infringement of two patents by the defendant.
- Defended legal publishing company in jury trial involving allegations of violations of Lanham Act in United States District Court for the Southern District of Florida. Argued appeal which resulted in seminal Eleventh Circuit decision on recovery of attorneys' fees in Lanham Act litigation.
- Obtained preliminary injunction for worldwide business equipment manufacturer in United States District Court for the Central District of California to prevent continued trademark infringement and false affiliation.
- Represented a leading Internet service provider in a Lanham Act false advertising case that implicated the Communication Decency Act's "Good Samaritan" provisions.
- Defended large distribution company in a Section 337 Investigation in the United States International Trade Commission (ITC). In one of the largest patent infringement investigations to date, the Court found the subject patent invalid based on a broadening reissue amendment and a deficient reissue certificate. The Court held there was no violation of Section 337 and a general exclusion order did not issue.

- Represented worldwide office equipment corporation in trademark infringement, contributory trademark infringement and false affiliation dispute in federal court in California. Obtained a preliminary injunction against the defendants.
- Represented international fabric manufacturer in trademark infringement, passing off and unfair competition dispute in federal court in Georgia. Negotiated favorable settlement and permanent injunction in favor of client, including the payment of all attorneys' fees and costs by defendant.
- Represented national biotechnology corporation in patent dispute pending in federal court in Georgia. Negotiated favorable early settlement on behalf of client.
- Represented client as national legal counsel in trademark enforcement program for a major German automobile manufacturer and distributor.
- Represented a clothing designer in various trademark infringement and unfair competition actions pending in federal court in Georgia and Florida. Obtained civil seizure orders and executed seizures along with United States Marshals in two trademark counterfeiting cases. Obtained a judgment after a bench trial against an international duty-free company in the United States District Court for the Southern District of Florida for trademark counterfeiting.
- Represented a concrete formulator in a four week patent infringement trial in the United States District Court for the Northern District of Georgia. Obtained a jury verdict in favor of the patent holder and a finding of willful infringement of two patents by the defendant.
- Represented the world's largest carpet manufacturer in a patent infringement and trade secret misappropriation case in the United States District Court for the Northern District of Georgia involving technology used to manufacture carpet tile.
- Represented a plaintiff/former employer in a Lanham Act false advertising and restrictive covenant case in federal district court in West Virginia. Sued only one former employee but, after substantially completing the preliminary injunction hearing, negotiated a global settlement including non-parties (the former employee's new employer and another former employee who had joined the same company), which required the offending parties to pay attorneys' fees and abide by the terms of the restrictive covenant.
- Represented an Internet service provider in patent infringement litigation in the United States District Court for the District of Delaware.
- Defended a publicly traded company in a trademark infringement action in the United States District Court for the Northern District of California. Defeated

motion for preliminary injunction and obtained a ruling that plaintiff had abandoned its trademark by virtue of naked licensing.

- Represented a Fortune 50 company in connection with claims for computer theft and unfair competition arising from misuse of the Internet. Obtained a permanent injunction and a judgment against the defendant.
- Represented a telecommunications company in a trademark infringement action. Within one month of filing suit, successfully negotiated a settlement requiring Defendant to change its corporate name and notify the public service commission of its name change in every state in which it does business.
- Represented well-known telecommunications provider in multiple actions involving misappropriation of trade secrets and employee raiding in courts in Illinois, Virginia and Texas. Obtained relief including return of misappropriated information, consent injunctions and attorneys' fees.

INTERNAL INVESTIGATIONS

Wargo French's internal investigations team has extensive experience in handling internal and regulatory investigations related to fraud, embezzlement, antitrust, securities improprieties and data security breaches. Our attorneys are responsive to the urgent needs of a corporate environment by conducting thorough investigations in a manner that both meets our clients' objectives and is pragmatic. We work with in-house counsel, senior management, boards, and special investigations committees to develop and implement work plans and corporate compliance programs.

Objective and impartial, our attorneys guide businesses through troubled times by conducting meticulous investigations that will protect the attorney-client privilege and work product, while maintaining the confidential nature of the investigation. Our attorneys quickly identify the scope of the issues in order to help mitigate weaknesses in business operations. We utilize superior document management resources for the collection and review of documentation, conduct thorough witness interviews, and provide expert analysis at every step of the investigation process. Our clients include companies in the financial, insurance, and technology industries.

Wargo French is value-add focused and has a proactive approach to handling internal investigations and auditing:

- Investigated suspected insurance fraud ring in which company employees and agents were allegedly using access to company systems to stage insurance losses for personal gain.
- Conducted internal investigation on behalf of major global securities and investment banking group into allegations of misappropriation of proprietary trading software and presented investigation's findings to FINRA, which resulted in no action being filed against company.
- Conducted internal investigation on behalf of a Fortune 500 data company related to allegations by the New York Attorney General over data breaches that resulted in no charges being filed and development of portable device incident response plan.
- Conducted internal investigation on behalf of major New York-based university into allegations of improper pricing of student health insurance.
- Conducted internal investigation on behalf of Spanish-language media company into allegations that senior executives had misused travel and expense accounts.
- Conducted internal investigation on behalf of multinational telecommunications company into allegations of stock option backdating and earnings manipulation.

- Represented a mid-sized technology services company in connection with an internal investigation of embezzlement by the company's office manager, which ultimately resulted in the company's recovery of 100% of the embezzled funds.
- Represented an international steel processing company in connection with an internal investigation of accounting irregularities and associated embezzlement by a subsidiary company's controller and coordinated the client's cooperative efforts with the local U.S. Attorney's office, resulting in the controller's conviction.
- Conducted investigation and financial audit on behalf of star professional athlete pursuant to suspected breaches of fiduciary duties and potential IRS disclosures; engagement required work with big-four accounting firm under *Kovel* arrangement.
- Conducted internal investigations pursuant to alleged athletic compliance infractions on behalf of NCAA member.
- Conducted investigations of alleged sexual harassment and sexual assault on behalf of colleges.