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## THE APPELLATE

# HOT LIST

**A SPECIAL REPORT**

**EDITOR'S NOTE:** The U.S. Supreme Court arguments over the Patient Protection and Affordable Care Act—Obamacare, if you must—figure prominently in this year's list of hot appellate firms. Scarcely a marquee name in the business wasn't on the case in some way, shape or form. We also looked for firms that won big-money victories and landscape-shaping precedents in the federal circuit and state appeals courts, where thousands of cases are decided every year.

We asked our readers to nominate firms with at least one significant appellate win between May 2011 and May 2012 and that had an impressive track record overall. We supplemented the results with our own research to arrive at the list of 16 firms.

# THE APPELLATE HOT LIST



PHOTOS BY DIEGO M. RADZINSKI

PATRICIA MILLETT

## Akin Gump Strauss Hauer & Feld

The U.S. Supreme Court and appellate practice at Akin Gump Strauss Hauer & Feld has had a good year on both coasts.

On April 24, co-leader Patricia Millett achieved an enviable milestone, arguing her 31st case before the Supreme Court—more than any other woman in history. She represented tribal interests in an Indian land case called *Match-E-*

*Be-Nash-She-Wish Band of Pottawatomi Indians v. Patchak*.

A few days earlier, her Los Angeles-based co-leader Rex Heinke was savoring a long-awaited California Supreme Court labor decision: *Brinker Restaurant Corp. v. Superior Court*. The ruling clarified California's law requiring employers to give their workers meal breaks. Representing Brinker, Heinke won the point that employers need not ensure that workers do no work during the breaks.

"There was great interest in the case," Heinke said. "It affects every employer in the state."

The accomplishments help explain why, when Millett reached her milestone, firm chairman R. Bruce McLean described the appellate practice as a "jewel in the crown" of Akin Gump. "It's very important and visible," he said, and telegraphs to clients that "this is an expertise that is available when needed."

And it's not just a matter of the firm's roughly 20-member appellate team swinging into action at the last moment. "We have someone imbedded in the trial team," Heinke said, working on jury instructions and motions with an eye toward preserving issues to raise if an appeal becomes necessary.

Clients have grown to recognize the importance of a strong appellate component of major firms, he said. "It's increasingly the case that, in picking firms, clients want to see an established appellate practice. On the other hand, we don't want to lose sight of the fact that having an excellent trial practice is the key to having a great litigation practice."

At the other end of that continuum, the U.S. Supreme Court, Millett showed the importance of experience in appellate advocacy, an attribute that more and more women can claim. "It helps that there are so many women general counsel" who are picking Supreme Court advocates to represent their companies, she said.

During a Supreme Court Historical Society mock trial of an 1869 case featuring Millett last November, presiding Justice Antonin Scalia put himself back in the 19th century, telling Millett that a woman had never argued before the high court before. Her quick response: "Mr. Justice, the Fourteenth Amendment is a wonderful thing." —TONY MAURO