



## Robert B. Gilmore

Partner

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Robert Gilmore is a partner specializing in complex commercial, securities, and shareholder litigation. He has represented a number of major companies in a wide range of industries, including construction, petrochemicals, finance, banking, insurance services, and government IT contracting. Mr. Gilmore has litigated in federal and state courts across the United States, as well as in a number of private arbitrations involving breach of contract, securities, fiduciary duty, RICO and commercial tort claims. In addition, Mr. Gilmore has maintained an active pro bono practice, representing clients in suits brought against public accommodations under the Americans with Disabilities Act, family law proceedings and in nonprofit formation counseling.

Prior to joining **Stein Mitchell Beato & Missner LLP**, Robert was a litigation partner in the Washington, D.C. office of Kirkland & Ellis LLP.

### Community & Professional

Member, American Bar Association, Section of Litigation

Member, District of Columbia Bar Association

Board of Directors, The EVAN Foundation (Evan's Victory Against Neuroblastoma)

### Experience

#### • Healthcare / Life Sciences

- *Corcoran, et al. v. CVS Pharmacy, Inc.* (Northern District of California, Ninth Circuit Court of Appeals): Counsel for classes of consumers in suit against CVS for overcharging on prescription medicines. Successfully argued appeal before Ninth Circuit, obtaining reversal of summary judgment. Secured certification of multiple classes; case is set for trial.
- *Blue Cross and Blue Shield of Alabama, et al. v. CVS Health Corporation, et al.* (District of Rhode Island): Counsel for group of Blue Cross and Blue Shield insurance plans in suit against CVS for overcharging on prescription medicines.

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- *Bausch Health US, LLC v. Virtus Pharmaceuticals OPCO II, LLC*: Counsel for Virtus Pharmaceuticals in suit brought by competitor involving Lanham Act and antitrust claims. Secured favorable settlement for client.
- *Virtus Pharmaceuticals, LLC v. Method Pharmaceuticals, LLC (Florida state court)*: Counsel for Virtus Pharmaceuticals in a suit alleging theft of trade secrets, unfair trade practices, breach of fiduciary duty, tortious interference, and breach of contract claims against a competitor as well as former Virtus employees. Secured favorable settlement for our client.
- Outside litigation general counsel for Linden Capital, a leading healthcare private equity firm, advising the firm and its portfolio companies with respect to all litigation matters, including False Claims Act, Lanham Act, antitrust, trade secrets, employment, and commercial contract and business tort disputes.

### Music and Entertainment

- *UMG Recordings, Inc., et al. v. Grande Communications Networks, LLC (Western District of Texas)*: Counsel for leading music recording companies in large-scale copyright infringement suit against an internet service provider. Obtained summary judgment against ISP's safe harbor defense under the Digital Millennium Copyright Act, a ruling cited in numerous copyright cases and authorities. Case is set for trial.
- *UMG Recordings, Inc., et al. v. RCN Telecom Services, LLC (District of New Jersey)*: Counsel for leading music recording companies in large-scale copyright infringement suit against the sixth largest internet service provider in the country.
- *John C. Depp II, et al. v. Bloom Hergott (Los Angeles County Superior Court)*: Counsel for the actor Johnny Depp in legal malpractice and breach of fiduciary duty suit against his former entertainment lawyers. Obtained judgment on the pleadings in Mr. Depp's favor on defendants' counterclaims and secured an eight-figure settlement for Mr. Depp.

### Complex Commercial, Securities, and Shareholder Litigation

- *Commercial Arbitration Matter*: Trial counsel for leading engineering, procurement and construction contractor in a large commercial arbitration involving claims of over \$1 billion.
- *Commercial Arbitration Matter*: Counsel for leading financial technology venture capital firm, in a breach of contract and trade secret dispute with its former chief executive officer. After obtaining favorable rulings on initial dispositive motions and evidence preservation forensic discovery of our opponent, secured settlement on highly favorable terms: our opponent had initiated arbitration seeking more than \$22 million, but ended up agreeing to pay our client \$1 million.
- *Credit Suisse Securities (USA), LLC v. Simmonds* (In re Section 16(b) Litigation) (U.S. Supreme Court, Ninth Circuit and E.D. Wash.): secured dismissal of Exchange Act Section 16(b) derivative complaints targeting ten underwriters, including client Morgan Stanley & Co., and issuers of 54 initial public offerings. The court of appeals reversed and affirmed in part. Successfully obtained

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certiorari review by the Supreme Court, and secured the Supreme Court's reversal of the court of appeals. Following remand to the district court, plaintiff dismissed all 54 of the cases.

- *SRA International Inc. Shareholder Litigation* (Del. Ch. and E.D. Va.): secured full summary judgment on behalf of SRA and its board of directors in shareholder litigation challenging SRA's acquisition by Providence Equity Partners. Successfully defended plaintiff's appeal to the Delaware Supreme Court, obtaining affirmance of the Court of Chancery's judgment on all grounds. Successfully defended plaintiff's request for a preliminary injunction to prevent the consummation of the merger, allowing the transaction to close.
- *Republic of Iraq v. ABB AG, et al.* (S.D.N.Y.): secured dismissal with prejudice on behalf of 92 defendants, including client Siemens subsidiaries, in \$10 billion suit concerning civil RICO and other claims by the Republic of Iraq arising from the United Nations Oil-for-Food Program. Successfully defended plaintiff's appeal to the United States Court of Appeals for the Second Circuit, obtaining affirmance of the district court's dismissal.
- *Etkin & Company, Inc. v. SBD, LLC, et al.* (S.D. Fla.): secured dismissal on behalf of SBD Holdings Group Corp., the owner of the South Beach Diet business, in breach of contract case brought by a former advisor to the business's prior owner and founder, Etkin & Company, Inc. ("ECI"), seeking money damages and rescission of the transaction through which SBD Holdings acquired The South Beach Diet business. The federal district court for the Southern District of Florida found for SBD Holdings on all counts, and dismissed it from the case.
- *Commercial Arbitration Matter*: Counsel for coal-fired power plant emissions technology company and affiliated joint venture in AAA arbitration concerning misappropriation of trade secrets, breach of contract and related claims, and civil RICO claims; resolved through settlement after 20-day evidentiary hearing.
- *Commercial Arbitration Matter*: Counsel for major petrochemical producer in AAA arbitration concerning the valuation of a large petrochemical plant; after 10-day evidentiary hearing, arbitration panel rejected opposing party's claim for over \$100 million.
- *Perini Corporation Securities and Shareholder Litigation* (D. Mass and Mass. Sup. Ct.): counsel for Perini Corporation and its directors in federal and state court litigation arising coincident with Perini's merger with Tutor - Saliba, Inc. Secured dismissal of federal securities action alleging 1934 Act Section 10(b) and 20 violations; the plaintiffs took no appeal. In the Massachusetts state court merger litigation, a shareholder class action suit sought to enjoin the merger. After an evidentiary hearing, the state court denied the shareholders' motion for preliminary injunction and later dismissed the case on its merits.
- *Nationwide Insurance - Hurricane Katrina Litigation*: participated as coordinating national counsel representing Nationwide in numerous Hurricane Katrina-related cases. Successfully resolved all cases through summary judgment, dismissal or settlement without a single adverse judgment or verdict.

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- *Thrivent Financial for Lutherans Life Insurance Sales Practices (District of Minnesota; arbitration)*: Defense of, and settlement on favorable terms for, Thrivent Financial for Lutherans in life insurance sales practices class action; and represented Thrivent as trial counsel in arbitration of 275 class action opt-out claims, securing highly favorable award.
- *FTC v. CompuCredit Corp.*(N.D. Ga.) and *FDIC v. CompuCredit Corp.* (administrative proceeding): counsel for CompuCredit in suits brought by the Federal Trade Commission and Federal Deposit Insurance Corporation concerning claims under the FTC Act and the FDIA.
- *CompuCredit Corp. v. CB&T Co. and Synovus Corp.* (Fulton Cty., Ga. State Ct.): counsel for CompuCredit as plaintiff in breach of contract suit concerning issuance of near-prime credit cards and participation in VISA and MasterCard initial public offerings. Reached settlement on favorable terms prior to trial.

### News

Robert B. Gilmore Named BTI Client Service All-Star Elite MVP for 2016  
02.08.2016

Hacked Casino Sues Cybersecurity Firm  
Jonathan E. Missner and Robert B. Gilmore represent Affinity Gaming in a lawsuit against Trustwave.  
*Originally Published in The Hill*

Stein Mitchell Secures Victory for The South Beach Diet

2015 Super Lawyers of Stein Mitchell Cipollone Beato & Missner LLP  
07.20.2015

Robert B. Gilmore Named BTI Client Service All-Star of 2015  
04.29.2015

### Practice Areas

Commercial Litigation

### Honors

*BTI All-Star MVP (2016); BTI All-Star (2015)*. *BTI* is the only independently researched, client-driven ranking of attorneys.

*SuperLawyers®* Rising Star, Washington, D.C. (2014, 2015, and 2016)

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Expert Network Distinguished© Lawyer Designation (2015)

Recipient, Outstanding Service Award (2012-13) from Washington Lawyers' Committee on Civil Rights, for pro bono representation of the Equal Rights Center in litigation against Filene's Basement under the Americans with Disabilities Act and D.C. Human Rights Act.

### Education

The George Washington University Law School, J.D.

University of Maryland Baltimore County, B.A.

### Admissions

District of Columbia Court of Appeals

United States Supreme Court

United States Court of Appeals for the Second Circuit

United States District Court for the District of Columbia

United States District Court for the Southern District of New York

United States District Court for the Southern District of Texas