



Wes Earnhardt

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Joe Wesley Earnhardt (Wes) is a first-chair trial and appellate lawyer with significant experience in antitrust, intellectual property, general commercial, securities, and financial restructuring and reorganization matters. Named a “Litigation Trailblazer” by *The National Law Journal* and a “Litigation Star” by *Benchmark Litigation*, he regularly represents his clients in business-critical matters in jurisdictions nationwide.

Mr. Earnhardt’s clients have included Atlas Air, Epic Games, ESPN, GTT Communications, Illumina, Ingevity, JPMorgan Chase, PG&E, Qualcomm, Root, Spirit AeroSystems, Starz Entertainment, Time Warner, The Walt Disney Company and Xerox.

Mr. Earnhardt’s representative matters include:

Antitrust

- *FuboTV Inc., et al. v. The Walt Disney Company, et al.* (S.D.N.Y.): Represented Disney and its subsidiary ESPN in antitrust litigation brought by FuboTV seeking to block a joint venture through which Disney, ESPN, Fox and Warner Brothers Discovery would distribute their sports portfolios through a combined streaming platform. In January 2025, the parties announced a settlement in connection with an agreement to combine Disney's Hulu + Live TV streaming business with Fubo.
- *In the Matter of Illumina, Inc. and Grail, Inc.* (F.T.C.): Represented Illumina, a leader in DNA sequencing technology, in antitrust litigation brought by the Federal Trade Commission (FTC) seeking to block Illumina's \$8 billion acquisition of GRAIL, a healthcare company focused on multi-cancer early detection. The FTC's Chief Administrative Law Judge ruled in favor of Illumina and rejected the FTC's challenge to the merger.
- *Epic Games, Inc. v. Google LLC, et al.* (N.D. Cal.) and *Epic Games, Inc. v. Apple Inc.* (N.D. Cal. and Ninth Circuit): Representation of Epic Games as plaintiff in two actions against Google and Apple, alleging anticompetitive behavior in the distribution of mobile apps and the handling of in-app payments. After a multiweek trial in the case against Google, a jury unanimously ruled in favor of Epic on all counts. Following a three-week bench trial in the Apple case, the court issued a nationwide permanent injunction against Apple's anti-steering policies.
- Representation of Qualcomm Incorporated in numerous high-stakes disputes and investigations around the world relating to the company's patent licensing and modem chipset businesses, including:
 - *Apple Inc. v. Qualcomm Incorporated* (S.D. Cal.): An action filed by Apple against Qualcomm, which included claims for breach of contract and violations of the Sherman Act. Following opening statements at trial, the parties reached a global settlement that included a payment from Apple to Qualcomm; the companies also reached a six-year license agreement and a multi-year chipset supply agreement.
 - *FTC v. Qualcomm Incorporated* (N.D. Cal. and Ninth Circuit): A suit filed by the FTC alleging violations of Section 5 of the FTC Act and seeking a permanent injunction against Qualcomm. In a complete defense victory for Qualcomm, the Ninth Circuit unanimously reversed the district court's prior judgment and vacated a permanent, worldwide injunction that had prohibited several of Qualcomm's core business practices.

General Commercial and Intellectual Property

- *Warner Chappell Music, Inc., et al. v. Nealy, et al.* (U.S.): Won a U.S. Supreme Court decision holding that a copyright owner may recover damages under the Copyright Act for any timely filed infringement claim, regardless of when the infringement occurred. Mr. Earnhardt argued the appeal for Respondents, and the Court's decision provides clarity on an important issue that divided the Circuit Courts. *Managing IP* recognized this victory as a 2025 Impact Case of the Year.

- Representing ESPN in connection with separate media rights litigation between the Atlantic Coast Conference (ACC) and Florida State University, and the ACC and Clemson University.
- Representing several leading international media and entertainment companies with respect to a variety of issues, including confidential arbitrations, contested business transactions, corporate governance and contractual disputes, and shareholder matters.
- *Ingevity Corporation v. BASF Corporation* (Fed. Cir.): Representing Ingevity in its appeal to the Federal Circuit of a patent infringement case against BASF and BASF's antitrust counterclaims.
- *Santos Laguna v. The Walt Disney Company* (Cal. Super.): Represented Disney and its subsidiary FSLA Holdings LLC as lead trial counsel in an action filed by Santos Laguna S.A. de C.V., which alleged breach of contract and other claims arising out of Disney's divestment of certain broadcasting assets in Mexico. Mr. Earnhardt won the dismissal of multiple claims and secured summary adjudication and other pretrial rulings that reduced Santos's claimed damages by 70%. The parties subsequently reached a settlement partway through a jury trial on the remaining claims.
- *Starz Entertainment LLC v. MGM Domestic Television Distribution LLC* (C.D. Cal. and Ninth Circuit): Secured a precedential Ninth Circuit decision in favor of Starz in a copyright infringement and breach of contract action against MGM Domestic Television. The decision affirmed a district court's holding that the Copyright Act did not impose a time-based bar on damages for copyright infringement claims separate from the three-year statute of limitations. Mr. Earnhardt argued the appeal on behalf of Starz and previously handled the successful argument against MGM's motion to dismiss.
- *Root, Inc. v. Embedded Insurance, Inc.* (Del. Ch.): Represented Root in a declaratory and injunctive relief action against Embedded Insurance, in which he successfully enjoined Embedded from breaching a binding standstill and non-disclosure agreement.
- *Cargo on Demand, Inc. v. Polar Air Cargo Worldwide, Inc.* (S.D.N.Y.): Won the complete dismissal of litigation filed against Polar Air by Cargo on Demand ("COD") alleging violations of the federal RICO statute and common law fraud claiming that former members of Polar senior management conspired to overcharge COD by demanding COD make payments to them as a condition of doing business with Polar.
- *The Boeing Company v. Spirit AeroSystems, Inc.* (Del. Super. and Del. Supreme): Won summary judgment for Spirit AeroSystems in a breach of contract lawsuit filed by Boeing, seeking nearly \$150 million in indemnification from Spirit for damages and expenses that Boeing incurred as a result of two proceedings initiated by former Boeing employees. Following oral argument by Mr. Earnhardt, the Delaware Supreme Court affirmed the decision.

Securities

- *Drott v. Sana Biotechnology Inc., et al.* (W.D. Wash.): Representing Sana Biotechnology, its CEO and CFO in putative class action securities litigation alleging defendants made false and misleading statements concerning the company's operations.
- *Li v. Spirit AeroSystems Holdings, Inc., et al.* (S.D.N.Y.): Representing Spirit AeroSystems and certain of its officers in putative class action securities litigation alleging defendants made false and misleading statements regarding the company's quality controls.
- *Kolominsky v. Root, Inc.* (S.D. Ohio and Sixth Circuit): Won a motion to dismiss all claims asserted against Root and certain of its officers and directors in a putative securities class action litigation. The lawsuit alleged that offering documents issued in connection with Root's October 2020 initial public offering contained false and misleading statements. Mr. Earnhardt secured a precedential Sixth Circuit decision affirming the dismissal and creating new circuit law on the application of FRCP 9(b)'s heightened pleading standard to negligence claims.
- *In re Peabody Energy Corp. Securities Litigation* (S.D.N.Y.): Represented Peabody Energy and certain of its officers in purported class action securities litigation alleging defendants made false and misleading statements regarding the company's North Goonyella mine, which caught fire in September 2018. The parties reached a favorable settlement to resolve the action.
- *Plymouth County Retirement System v. GTT Communications, Inc., et al.* (E.D. Va.): Represented GTT Communications and certain of its officers and directors in a securities class action concerning GTT's \$2.3 billion acquisition of Interoute Communications Holdings S.A. The parties reached a settlement.
- *Oklahoma Firefighters Pension and Retirement System v. Xerox Corp.* (S.D.N.Y.): Won a motion to dismiss all claims in a securities fraud class action brought against Xerox and certain of its current and former directors and officers. The lawsuit alleged that defendants had made false and misleading statements regarding the profitability and growth prospects of a Xerox software product.
- *In re Xerox Securities Litigation* (D. Conn. and Second Circuit): Won summary judgment for Xerox in a 15-year securities class action litigation. All claims against Xerox were dismissed in their entirety, and the Second Circuit affirmed the grant of summary judgment.
- *JPMorgan RMBS Litigations*: Represented JPMorgan and related entities—including WaMu and Bear Stearns—in RMBS investor actions. In *In re Washington Mutual Mortgage Backed Securities Litigation* (W.D. Wash.), Mr. Earnhardt won a decision limiting RMBS class claims based on tranche-level standing, eliminating claims covering approximately \$8 billion in securities. In *Dexia SA/NV, et al. v. Bear, Stearns & Co., et al.* (S.D.N.Y. and N.Y. Sup. Ct.), Mr. Earnhardt won summary judgment in federal court covering certificates worth over \$1.5 billion and reducing claimed damages by over 99%.

Financial Restructuring & Reorganization

- *In re PG&E Corporation* (N.D. Cal.): Represented PG&E Corporation in its chapter 11 reorganization proceedings—the largest utility bankruptcy in U.S. history—leading the company’s efforts to resolve all pending wildfire claims.
- *Sears Holdings Corporation, et al. v. Edward Scott “Eddie” Lampert, et al.* (S.D.N.Y.): Represented the independent directors of Sears in an adversary proceeding alleging the independent directors breached their fiduciary duties and aided and abetted breaches of fiduciary duty by others. The parties in the adversary proceeding and a related shareholder action agreed to a favorable settlement.

Appellate

Mr. Earnhardt has extensive appellate experience across a range of practice areas, having led appeals in the U.S. Supreme Court, the U.S. Court of Appeals for the Second, Third, Sixth, Ninth and Federal Circuits, as well as the Supreme Courts of Delaware, Kentucky and South Carolina.

Pro Bono Matters

Mr. Earnhardt also devotes substantial time to pro bono service, including by serving as Co-Chair of the Board of Directors of The Adams Street Foundation, a nonprofit organization that supports the students of The Urban Assembly School for Law and Justice.

- *Guzman Orellana v. Att’y General* (Third Circuit): Helped achieve a precedential ruling for a client who sought asylum in the U.S. after fleeing a violent gang in El Salvador. The Third Circuit granted the client’s petition for review and remanded the case to the Board of Immigration Appeals (BIA) for further proceedings, concluding that the BIA erred in dismissing his application for relief under the Immigration and Nationality Act (INA) and the Convention Against Torture. The affirmative holding that an applicant need not testify in open court to be a protected complaining witness under the INA could greatly expand the scope of applicants entitled to relief. In August 2023, the Newark Immigration Court found that, in light of the Third Circuit’s opinion and the record, it was clear the client qualified for asylum and no further proceedings were necessary.
- *United States v. Jermel Lewis* (Third Circuit): Helped achieve a significant ruling on an important issue of criminal procedure representing Amachi, Inc., a nonprofit organization that tutors children of prisoners, in filing an amicus brief in support of Jermel Lewis’s appeal of his criminal sentence. The Third Circuit, sitting en banc, vacated Mr. Lewis’s sentence (reversing its own prior decision) and remanded for resentencing. The court followed the analysis set forth in Cravath’s amicus brief, agreeing that it was harmful error under the U.S. Supreme Court’s *Alleyne* standard to sentence Mr. Lewis for a higher offense than that for which he had been indicted and convicted.

Recognitions and Awards

Mr. Earnhardt is regularly recognized by leading professional publications, including being honored as a “Media and Entertainment MVP” by *Law360* and commended by the publication for his work in securities and class action

litigation. He and his colleagues have also earned the Firm distinction as a *Law360* “Media and Entertainment Practice Group of the Year.” *The Legal 500 US* consistently recognizes his work in general commercial disputes, media and entertainment and securities litigation. Mr. Earnhardt has additionally been selected as one of *Lawdragon’s* “500 Leading Litigators in America,” “500 Leading Global Antitrust & Competition Lawyers” and “500 Leading Global Entertainment, Sports & Media Lawyers.”

In 2021, Mr. Earnhardt was named by the *Sports Business Journal* as a “Power Player” in Sports Law. He has been selected to serve as a member of *Law360’s* Media & Entertainment Editorial Advisory Board for several years, including most recently in 2025. Mr. Earnhardt was previously featured as “Litigator of the Week” by *The Am Law Litigation Daily* for his representation of JPMorgan in *Dexia SA/NV, et al. v. Bear, Stearns & Co., et al.*, in obtaining a summary judgment victory that eliminated from litigation certificates worth over \$1.5 billion.

Mr. Earnhardt received the New York County Lawyers’ Association’s 2013 Boris Kostelanetz President’s Medal for his work co-authoring a chapter in the book *Commercial Litigation in New York State Courts* (Third Edition) and is a co-author of a chapter in the book’s fourth edition. He is also a co-author of the chapter “Trials” in the book *Business and Commercial Litigation in Federal Courts* (Fourth Edition).

Mr. Earnhardt is from Denver, North Carolina. He received a B.A. in Economics with distinction from the University of North Carolina at Chapel Hill in 2000, where he was elected to Phi Beta Kappa, and a J.D. with high honors from the University of North Carolina School of Law in 2004, where he was an Articles Editor of the *Law Review*.

Mr. Earnhardt joined Cravath in 2004 and was elected a partner in 2011.

EDUCATION

- J.D., 2004, University of North Carolina School of Law
- B.A., 2000, University of North Carolina at Chapel Hill
Phi Beta Kappa

ADMITTED IN

- New York

PROFESSIONAL AFFILIATIONS

International Bar Association

ORGANIZATIONS

The Adams Street Foundation

- Co-Chair, since 2016
- Board of Directors

The Fund for Modern Courts

- Board of Directors, 2014-2018

Law360

- Member, Editorial Advisory Board - Media & Entertainment (2025, 2024, 2018)

RANKINGS

Am Law Litigation Daily

- Litigator of the Week (April 4, 2013)

Benchmark Litigation

- Litigation Star - New York (2025-2022)
- Future Star (2021-2016)
- 40 & Under List (2018-2016)

Law360

- Media & Entertainment MVP of the Year (2024)
- Rising Star: Class Action Lawyers Under 40 to Watch (2016)
- Rising Star: Securities Lawyers Under 40 to Watch (2014)

Lawdragon

- 500 Leading Global Entertainment, Sports & Media Lawyers (2025)
- 500 Leading Litigators in America (2025, 2024, 2023)
- 500 Leading Global Antitrust & Competition Lawyers (2025)

The Legal 500 US

- General Commercial (2024, 2023, 2020-2016)
- Media and Entertainment (2024, 2023, 2022, 2019)
- Securities Litigation (2024, 2016, 2015)

Managing IP

- Impact Case of the Year - *Warner Chappell Music, Inc., et al. v. Nealy, et al.*, No. 22-1078 (U.S.) (2025)

National Law Journal

- Litigation Trailblazer (2022)

New York Law Journal

- Rising Star (2016)

Super Lawyers - Rising Stars - New York

- Antitrust Litigation (2015)
- General Litigation (2014)

Boris Kostelanetz President's Medal, New York County Lawyers' Association, 2013