



RETAIL  
LITIGATION  
CENTER

# ANNUAL REPORT

## 2024

An Association Dedicated to Strategic Litigation  
Advocacy for & Defense of the Retail Industry



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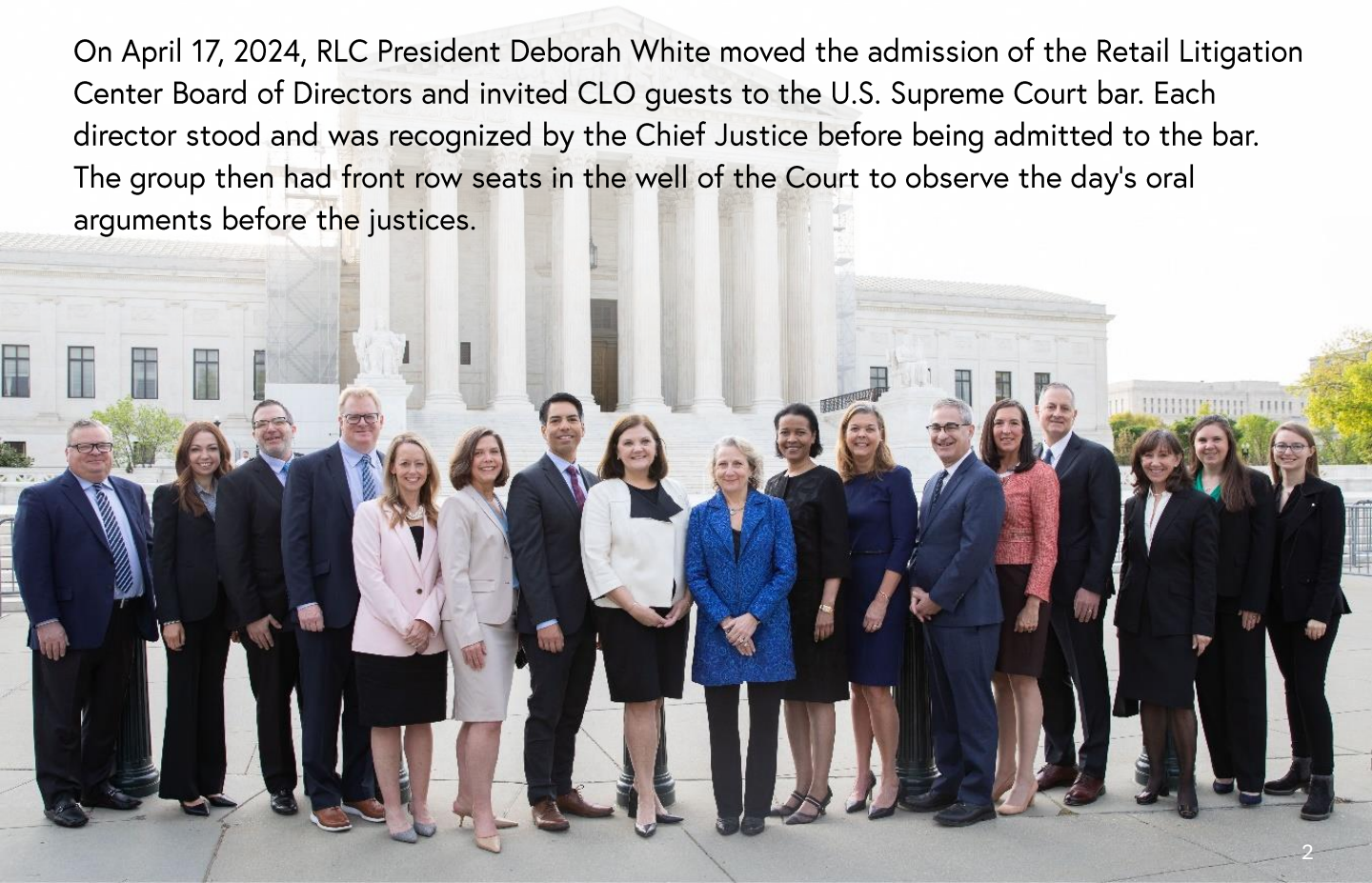
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## HIGHLIGHT: SUPREME COURT BAR SWEARING-IN

On April 17, 2024, RLC President Deborah White moved the admission of the Retail Litigation Center Board of Directors and invited CLO guests to the U.S. Supreme Court bar. Each director stood and was recognized by the Chief Justice before being admitted to the bar. The group then had front row seats in the well of the Court to observe the day's oral arguments before the justices.



## LETTER FROM THE RLC'S PRESIDENT

Dear Friends of the Retail Industry,

We are pleased to present the 2024 Retail Litigation Center (RLC) Annual Report to share highlights from the RLC's 14th year representing the retail industry.

For the first time, we invited the RLC Board of Directors (and select other CLO's) to be sworn in to the bar of the U.S. Supreme Court (see previous page). That event anchored the RLC's spring meetings in D.C.

The RLC also published its 2d biennial Retail Litigation Report, based on extensive member data analyzed by the RLC team on retail litigation statistics from litigation budgets to outside counsel usage.

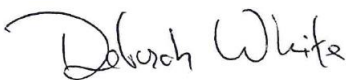
We hosted unique programming, including a 2-hour virtual Mass Arbitration Bootcamp and a Patent Solution Provider Showcase. Our member groups are now stronger than ever.

Our weekly publication *Courtside with the Retail Litigation Center*<sup>TM</sup> enjoys such high readership rates that we launched *Courtside Connections*<sup>TM</sup> as a separate publication to help members (retail & law firm) "find" each other on key litigation matters.

The RLC filed more than 20 amicus briefs on matters from payments to premises liability and pay transparency laws to mass arbitration.

The RLC team also made big strides this year. The RLC's first Litigation Counsel Larissa Whittingham made innumerable contributions in her first full year, and the RLC's Paralegal Anna Williamson launched the new Legal Operations Committee.

We are grateful to the RLC's Board of Directors and to the Retail Litigation Center members, whose support is essential to our ability to represent the retail industry in the judiciary. We look forward to working with you to strengthen the retail litigation community in 2025!



Deborah White  
President





# RETAIL LITIGATION CENTER

## WHO WE ARE

Directed by the chief legal officers of the country's leading retail companies, the Retail Litigation Center (RLC) creates a unique dual membership community – retailers and law firms – to develop forward-thinking strategies to address the retail industry's litigation priorities. The Retail Litigation Center is a 501(c)(6) membership association open to all retailers, as well as to select law firms.

## RLC BOARD OF DIRECTORS



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Executive Vice  
President  
Chief Legal Officer  
& Secretary  
PetSmart, Inc. &  
Chair, RLC



Jodi Caro  
General Counsel, Chief  
Risk & Compliance  
Officer  
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&  
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Teresa Roseborough  
EVP, General Counsel &  
Corporate Secretary  
The Home Depot, Inc.  
&  
Vice Chair, RLC



Todd Hartman  
EVP, General Counsel &  
Chief Risk Officer  
Best Buy Co., Inc. &  
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SVP, General Counsel  
& New Business  
Development  
Five Below &  
Secretary, RLC



Rhonda Taylor  
EVP, General Counsel  
Dollar General Corporation  
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Deborah White  
SEVP & General  
Counsel, RILA  
&  
President, RLC



RETAIL LITIGATION CENTER

# RLC MEMBERS

## RETAILERS

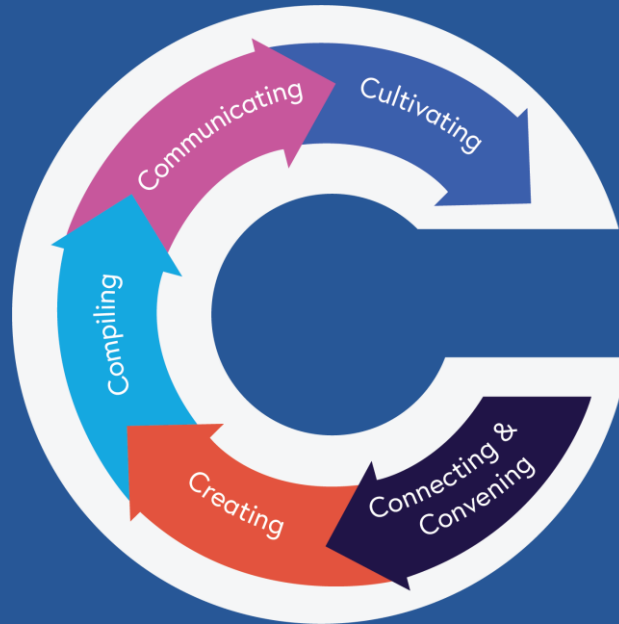


## PREMIER LAW FIRM MEMBERS



## LAW FIRMS





## THE FIVE Cs

The RLC supports its members in a variety of ways:

**Connecting & Convening** members to facilitate engagement on key litigation issues;

**Creating Thought Leadership** to provide cohesion on the retail industry's common litigation goals;

**Compiling Key Retail Litigation Information** to create collective resources;

**Communicating** the latest litigation news, decisions and developments; and

**Cultivating Strategic Advocacy in the Courts** to support the retail industry's litigation goals.



## COMMUNICATING

### COURTSIDE™ WITH THE RETAIL LITIGATION CENTER

Each week, the RLC publishes *Courtside™ with the Retail Litigation Center*. *Courtside* "issue spots" key retail litigation matters and includes primary materials for members who want to dig deeper. With an enviable open rate of over 50% and high forwarding potential, *Courtside* helps legal teams stay informed and connected on emerging litigation trends impacting retailers.

30% FORWARDED COURTSIDE

45% CLICKED TO LEARN MORE

### NEW! COURTSIDE CONNECTIONS™

In April 2024, the RLC launched *Courtside Connections™* to help retail and law firm members connect with each other on litigation issues. Each week, CC circulates anonymized litigation queries to the full membership and then individually connects members as appropriate. Recent queries have included topics such as, recommended defense counsel, effective mediators, and tactics of repeat-player plaintiffs' counsels.

50+ MEMBER CONNECTION REQUESTS FULFILLED IN 7 MONTHS

TOTAL NETWORK: 700+

TOTAL FORWARDS: 10,000+



## **CONNECTING & CONVENING**

### **RLC MEMBER COMMUNITIES**

The RLC's member communities provide opportunities for retail members to engage with each other and the RLC on key litigation issues. Each group met quarterly, with additional calls and surveys/benchmarking as needed. These include:

#### **NEW! ADVOCACY DIVISION**

Retail litigation leads help the RLC shape the litigation landscape in the courts.

#### **DEFENSE DIVISION**

Retail counsel identify litigation waves and advise the RLC on methods to address them.

#### **PAGA WORKING GROUP**

Retail counsel work with the RLC & law firm members on key PAGA issues and advise on methods to address them.

#### **PATENT LITIG. WORKING GROUP**

Retail counsel collaborate to defend their companies against patent troll and other infringement claims.

### **NEW! LEGAL OPERATIONS COMMITTEE**

The Legal Operations Committee brings together member company professionals responsible for the broad set of business processes, activities and technical practices that support their legal department's delivery of services. A joint initiative with the RLC's sister organization RILA, the committee is title-neutral to reflect the range of professionals tapped to lead their company's legal ops programs.

#### **SUBJECT AREAS**

Current topic areas identified by Legal Ops committee members for discussion and exploration include:

- Analytics/metrics/reporting/KPIs
- Billing/invoices
- Budgeting processes
- Contracts management & process
- Document management
- eDiscovery
- Legal technology & innovation





## CONNECTING & CONVENING

### IN-PERSON MEETINGS

The RLC's spring and fall meetings connected members to benchmark, network, & hear from experts on hot litigation topics.



### RETAIL LAW CONFERENCE

The RLC co-hosted RLAW24, bringing together hundreds of top in-house legal leaders to engage in top-of-the line CLE-worthy education, high-level benchmarking and discussion, and unparalleled networking opportunities.

### EXPERT-LED VIRTUAL EVENT HIGHLIGHTS

The RLC works with RLC Law Firm Members to provide special events on timely topics, such as:

- **Mass Arbitration Bootcamp:** Counsel on the cutting edge of mass arbitration activity discussed tips to identify mass arb attacks early; judicial feedback on arbitration clauses; risk mitigation techniques; and more.
- **Patent Solution Provider Showcase:** ([Log In Here to View](#)) The RLC hosted representatives from three risk management solution providers (LOT, RPX and Unified Patents) to discuss tools to reduce risk from patent litigation trolls.
- **Supreme Court Wrap-Up for Retailers:** ([Log In Here to View](#)) Retail-specific analysis of the Supreme Court's Oct. 2024-June 2025 Term from three RLC Law Firm Member Supreme Court advocates.
- **DEI Litigation Landscape:** Overview of recent and active litigation as well as implications for corporate DEI programs, plus tips on navigating the DEI landscape.

## COMPILING KEY RETAIL LITIGATION INFORMATION

### RETAIL LITIGATION REPORT

The RLC's unique biennial Retail Litigation Report compiles and analyzes detailed anonymized data from the RLC's retail members on the structure of their litigation functions.

The 70-page Report provides data specific to leading U.S. retailers on issues like litigation department organization and headcount and spend (both in-house and outside counsel) as well as types of litigation faced and rate of closure.

The Report and a respondent-only "readout" webinar are only available to RLC retail members who participate in the underlying data gathering. RLC Law Firm members receive a special summary.

## LEGAL DEPARTMENT & LITIGATION BUDGETS

### Average Budgets

Revenue Band	Legal Department	Litigation
≤\$5B	\$1,200,000	\$1,800,000
\$6-12B	\$1,500,000	\$2,200,000
\$12B+	\$2,000,000	\$3,000,000
All	\$1,500,000	\$2,200,000

### Median Budgets

Revenue Band	Legal Department	Litigation
≤\$5B	\$1,000,000	\$1,500,000
\$6-12B	\$1,200,000	\$1,800,000
\$12B+	\$1,500,000	\$2,200,000
All	\$1,200,000	\$1,800,000

### Litigation Budget as % of Total Legal Budget

Revenue Band	Percentage
≤\$5B	60%
\$6-12B	65%
\$12B+	70%
All	65%

### Average Budgets (as % of Revenue) Median Budgets (as % of Revenue)

Revenue Band	Legal Department	Litigation
≤\$5B	2.4%	3.6%
\$6-12B	2.5%	3.7%
\$12B+	2.6%	4.0%
All	2.5%	3.7%

Revenue Band	Legal Department	Litigation
≤\$5B	2.0%	3.0%
\$6-12B	2.0%	3.0%
\$12B+	2.5%	3.5%
All	2.2%	3.2%



## COMPILING KEY RETAIL LITIGATION INFORMATION

### CASE COMPENDIA

In 2024, the RLC issued the first edition of a future series of Case Compendia, which compile information about retail-relevant litigation waves to give retail counsel access to key information about each wave such as, who is representing retailers and where cases are occurring, as well as to provide quick access to pleadings in similar cases.

### ARIZONA PIXEL CASE COMPENDIUM

The inaugural Case Compendium covered the breadth and depth of the wave of cases involving digital Pixel tracking cases brought in multiple jurisdictions under an Arizona law.

### BLOGS

The RLC publishes blogs on special topics via its website or via its weekly *Courtside* newsletter. Two notable 2024 blogs featured the following issues only for members:

- *Heckman v. Live Nation* Mass Arbitration Mitigation
- FTC Robinson-Patman Act Lawsuit

## CREATING THOUGHT LEADERSHIP

The RLC's board and members look to the RLC to develop unique thought leadership to advance the retail industry's litigation-related goals. These include model pleadings (which save retailers money on outside counsel spend), white papers, and expert-led virtual events on a range of essential topics.

### INJUNCTIVE RELIEF GUIDE

The RLC commissioned a guide to assist the RLC's strategic decision-making on party litigation that will provide the greatest opportunity for RLC members.

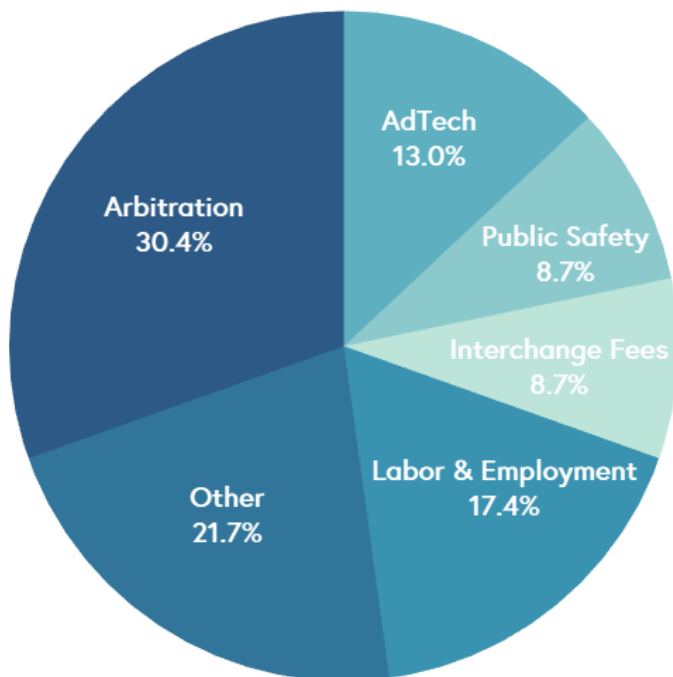


## CULTIVATING STRATEGIC ADVOCACY IN THE COURTS

The RLC's amicus work strategically educates judges at all levels of the judiciary across the country on practical and legal issues important to the retail industry. From the RLC's first amicus brief in *Walmart v. Dukes* to the successful strategy that led to the landmark U.S. Supreme Court *South Dakota v. Wayfair* decision, the Retail Litigation Center systematically advances the retail industry's priorities at all levels of the nation's judiciary. The RLC has explained leading retailers' top priorities in over 250 amicus briefs, including 23 filed in 2024 alone. And the courts have listened. Courts – including the U.S. Supreme Court – have cited the RLC's briefs favorably in majority opinions.

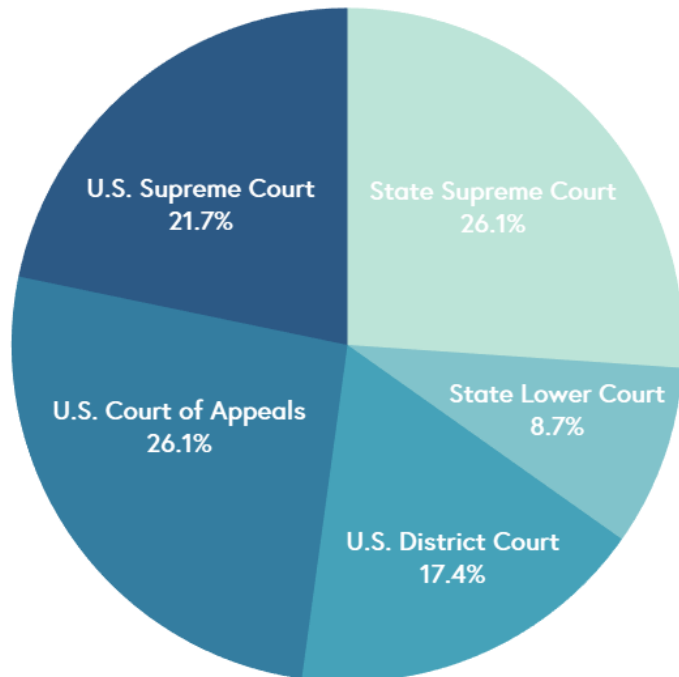
### 2024 BRIEF BREAKDOWN

#### BY THE ISSUE



OTHER: Competition; Premises Liability; Products Liability; Tax

#### BY COURT





## CULTIVATING STRATEGIC ADVOCACY IN THE COURTS

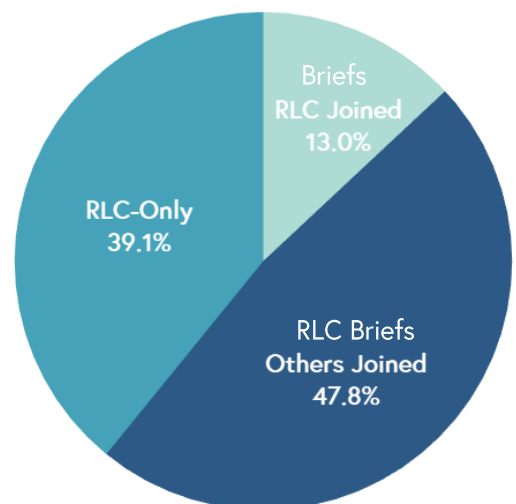
### 2024 FEATURED BRIEF HIGHLIGHTS

- *Popa v. PSP & Microsoft* (U.S. Court of Appeals for the Ninth Circuit)
  - The RLC illustrated that the limited information retailers obtain through session replay does not violate traditional privacy interests and, therefore, plaintiffs do not have Article III standing.
  - Drafted by: Aileen McGrath, Morrison Foerster
- *Cornelius v. CVS* (U.S. Court of Appeals for the Third Circuit)
  - The 3<sup>rd</sup> Circuit granted the RLC's request to participate in oral argument after accepting the RLC's brief explaining how courts should evaluate the applicability of the Ending Forced Arbitration of Sexual Assault & Sexual Harassment Act.
  - Drafted by: Michael Kenneally, Morgan Lewis
- *Garcia v. American Eagle Outfitters* (Supreme Court of Pennsylvania)
  - The RLC explained that consumers' recourse for sales tax disputes is solely in Pennsylvania's administrative agencies and not a forum for plaintiffs' attorneys to seek damages under the state's consumer protection statutes.
  - Drafted by: Meredith Slawe, Mike McTigue, Rachel Moore, and Carolyn Taglienti, Skadden
- *Corner Post v. Board of Fed. Reserve* (U.S. District Court, Dist. of North Dakota)
  - The RLC advocated for the retail industry's interest in a challenge to the costs included in the regulation implementing the Durbin's Amendment's limitation on the amounts banks and card issuers can charge for debit card swipe fees.
  - Drafted by: Adam Unikowsky, Jenner & Block

### LITIGATION ALLIANCES

The RLC collaborated on its briefs with other national business associations such as the U.S. Chamber of Commerce, NFIB, NRF, Merchants Advisory Group, and the Restaurant Law Center, in addition to state and local-level retail associations.

*At Right: RLC Partnership Distribution*



## CULTIVATING STRATEGIC ADVOCACY IN THE COURTS

### APPENDIX: 2024 RLC AMICUS BRIEFS

[View all 255 RLC briefs filed to date here](#), including counsel utilized + issue summaries.

- *Ford v. Parks* – Supreme Court of Texas
- *In re Grants Pass* – Supreme Court of the United States (merits stage)
- *Brown v. Old Navy, LLC et al.* – Supreme Court of Washington
- *Garcia v. American Eagle Outfitters, Inc.* – Supreme Court of Pennsylvania
- *Cornelius v. CVS* – U.S. Court of Appeals for the Third Circuit
- *Walgreens v. PWN* – U.S. District Court, District of Delaware
  - *Brief in Response to Opposition to Amicus Brief (ruling on opposition pending)*
- *In re Uber Technologies W&H Cases* – Supreme Court of the US (cert. stage)
- *The Home Depot v. NLRB* – U.S. Court of Appeals for the Eighth Circuit
- *Innov. Ventures v. U.S. Wholesalers* – Supreme Court of the US (cert. stage)
- *Popa v. PSP* – U.S. Court of Appeals for the Ninth Circuit
- *Santander v. THD* – Supreme Court of Texas
  - *Brief in Response to Opposition to Amicus Brief (brief accepted by Court)*
- *Tucker v. Bath & Body Works* – California Court of Appeals
- *RAC Acceptance East v. McBurnie, et al.* – Supreme Court of the US (cert. stage)
- *Advance Stores Company v. Birthwright* – U.S. Court of Appeals for the 2<sup>nd</sup> Circuit
  - *Brief in Response to Opposition to Amicus Brief (ruling on opposition pending)*
- *D'Hedouville v. H&M* – Arizona Superior Court- Pima County
- *Netchoice v. Carr* – U.S. Court of Appeals for the Eleventh Circuit
- *Illinois Bankers Assn., et al. v. Raoul* – U.S. District Court, Northern District of Illinois
- *Comcast v. Ramsey* – U.S. Supreme Court (cert. stage)
- *Corner Post v. Federal Reserve* – U.S. District Court, District of North Dakota
- *Branson, et al. v. Washington Fine Wine & Spirits, LLC* – Washington Supreme Court



## JOIN THE RLC IN 2025!

We welcome new members to experience the wide variety of opportunities offered by the Retail Litigation Center.

### RETAIL MEMBERSHIP...

...includes the opportunity for all attorneys on your team to participate in the full selection of programs we offer. Other team members can receive information and join our new Legal Operations Committee. Dues are based on annual revenue.

### LAW FIRM MEMBERS...

...participate in a unique community of the retail industry's legal leadership on top litigation issues facing retailers.

### MEMBERSHIP BENEFITS INCLUDE:

- Ability to participate in and influence legal work around the retail industry's top priorities.
- Participate in and receive unique publications on litigation that impacts the retail industry.
- Opportunities to exchange ideas and discuss potential cases, challenges, and strategies.
- Networking and educational events built around small-group problem-solving and opportunities to share experiences.

VISIT [WWW.RETAILLITCENTER.ORG](http://WWW.RETAILLITCENTER.ORG) TO JOIN



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