

ALUMNI

NEWS

FALL 2020

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Welcome Back Wiggin Alumni!



Paul Hughes
Managing Partner

Since our last newsletter in early 2020, you all should have received our first alumni directory. Thank you again to everyone who made the directory a success by sending feedback or updated information. We are now starting work on the next version of our directory, which we hope will be even more comprehensive. If you have updated information for the directory, you can provide it through the [Alumni Directory Information Update Link](#).

As you may have noticed in our last newsletter and will see in this one, our Alumni are an active group! We love sharing any news that you have. If you have news about your professional or personal accomplishments you would like to share through the newsletter, please provide it through alumni@wiggin.com. Also feel free to share any news directly with our alumni community through the [Wiggin Alumni LinkedIn page](#).

As for the firm, in response to the COVID-19 pandemic, we have shifted largely to a remote-work model. Thanks to the tremendous efforts of our IT and support staff, the firm's operations have continued more or less seamlessly. That said, we look forward to the time when we are back together, and can meet our alumni, in person. Until then, I am glad that we are able to stay connected with you all, at least electronically, through this newsletter and through our [LinkedIn page](#).

During these times, many of us are also grappling with the realities of racial injustice. We recently launched the [Wiggin Opportunity Initiative](#) through which the firm pledged to provide \$10 million in free legal services to minority-owned businesses over the next decade. We are off to a great start already, and we would love to hear from you regarding potential opportunities to assist you or your contacts at minority-owned businesses. For more information on the WOI, [click here](#). Please send inquiries to John Doroghazi (jdoroghazi@wiggin.com) and Robyn Abbate (rabbate@wiggin.com).

I hope everyone is staying healthy and in good spirits.

Paul Hughes
Managing Partner

Rob Deichert

Since his time at Wiggin and Dana in the early 2000s, Rob Deichert has been working in the Special Litigation Department in the Attorney General's Office and presently serves as the Office Ethics Liaison.



You've obviously seen a lot over 17 years in the State's Special Litigation Department. Are there any particular types of matters or responsibilities that you find the most interesting or challenging?

That is a tough question, but I always hoped that I would someday have opportunities to litigate constitutional cases and I am very grateful that is a significant portion of my practice now. Lately, I—along with many other Assistant Attorneys General in my Office—have been defending a number of suits arising out of the COVID-19 pandemic. The cases I have been primarily working on have involved challenges on various constitutional grounds to the Governor's Executive Orders intended to reduce the spread of COVID-19 in Connecticut.

You recently defended the constitutionality of Connecticut's Liquor Control Act in the Second Circuit, working alongside private counsel who represented industry wholesalers who were also defending the statute. Was that unusual and what was it like?

No, it is fairly common for us to have private counsel on our side in litigation. But I was grateful to have the opportunity to work with Ben Diessel and Bob Langer on that case; I have fond memories of working with Bob during my time with Wiggin and Dana, and the firm had an important role in my development as an attorney.

How much of your practice involves defending Connecticut statutes based on constitutional or other challenges?

It is difficult to quantify, but I would say that a substantial majority of my practice usually involves defending either Connecticut statutes or Connecticut officials and employees from constitutional and related challenges.

What is an example of the sort of constitutional issues that you have worked on?

There are many, but one that immediately comes to mind was that I got to be part of the team that handled the case involving whether the Connecticut Constitution's educational provision encompasses a minimum qualitative standard before the Connecticut Supreme Court. Erika Amarante—who I have fond memories of from my time at Wiggin and Dana—was also involved in that case representing *amici curiae*.

Are preemption challenges to Connecticut law within your responsibilities?

Our Department handles a significant number of preemption challenges.

Finally, tell us a fun fact about Rob Deichert that folks who have worked with you might not realize.

I'm not sure it qualifies as a fun fact, but I am a huge fan of podcasts and have gotten a number of friends hooked on them as well. There are so many, but EconTalk, Lawfare, Throughline, and The Rewatchables are a few that I find interesting and/or fun.

"Total Wine" Litigation

In 2016, Connecticut Fine Wine and Spirits (doing business as "Total Wine & More") brought a constitutional antitrust preemption challenge against certain aspects of Connecticut's Liquor Control Act. The constitutionality of the statute was defended by both the Attorney General's Office as well as certain industry groups, including the Wine & Spirits Wholesalers of Connecticut, Inc. ("WSWC"), represented by Wiggin and Dana. In 2017, the District of Connecticut dismissed the preemption challenge in its entirety. Last year, the Second Circuit affirmed that decision. Earlier this year, the U.S. Supreme Court declined to grant the petition for certiorari filed by Connecticut Fine Wine and Spirits, which had alleged that the decision created a circuit split with the Fourth and Ninth Circuits. As a result, the Second Circuit's decision remains the law, confirming the constitutionality of Connecticut's liquor pricing laws. The case is captioned *Connecticut Fine Wine and Spirits, LLC, dba Total Wine & More v. Michelle H. Seagull, Commissioner, Connecticut Department of Consumer Protection*, No. 19-710 (U.S. Supreme Court).

Supreme Court Update



Greetings, Court Fans,

With the sad passing of iconic Justice Ruth Bader Ginsburg, a different Supreme Court will face the challenges of this Term. Wiggin and Dana's Supreme Court Update will keep you apprised of every decision. For those who do not already receive the update, it's an email newsletter where Tadhg Dooley, Dave Roth, and a number of other Wiggin and Dana appellate lawyers summarize every Supreme Court decision, from the high-profile blockbusters to the less-prominent decisions that may be relevant to your practice or interests. We also cover the day-to-day goings on at the Court, such as this term's experiment with teleconference arguments, prompted by the COVID-19 crisis.

Here are some of the upcoming highlights from the Court's docket for this Term:

- **California v. Texas (No. 19-840)** and **Texas v. California (No. 19-1019)**, a set of cases where plaintiffs have invented a new judo move to invalidate the Affordable Care Act. You may recall that the Court long ago **upheld** the ACA's coverage mandate as a tax. In recent years, Congress eliminated the monetary penalty attached to the mandate. Plaintiffs argue that a tax of \$0 can't be a tax, meaning the mandate is now unconstitutional (even though it is less a "mandate" and more a "suggestion"). But they then go even further, contending that the (now toothless) mandate cannot be severed from the rest of the ACA, so the entire statute must be struck down.
- **Carney v. Adams (No. 19-309)** asks whether a provision of Delaware's constitution, requiring partisan balancing of its Supreme Court, is unconstitutional.
- **Tanzin v. Tanvir (No. 19-71)**, where the Court will decide whether the Religious Freedom Restoration Act (RFRA) allows plaintiffs to sue federal officials for money damages when they allegedly violate RFRA.
- **Fulton v. City of Philadelphia (No. 19-129)**, another religious-discrimination case, this time asking (among several questions), whether the Court should overrule its decision in *Employment Division v. Smith* (1990).
- **Ford Motor Co. v. Bandemer (No. 19-369)** and **Ford Motor Co. v. Montana Eight Judicial District Court (No. 19-368)** are two consolidated cases addressing a narrow, but important question of personal jurisdiction, namely, how much of a connection must there be between an out-of-state defendant's contacts with the forum state and the plaintiff's injury.
- **Google LLC v. Oracle America Inc. (No. 18-956)**, a case that looks likely to resolve the much-debated question of whether a software interface can be copyrighted.
- **Nestlé USA, Inc. v. Doe (No. 19-416)** and **Cargill, Inc. v. Doe (No. 19-453)**, a pair of consolidated cases where the Court has been asked to decide whether U.S. corporations can be sued for their alleged involvement in human-rights abuses occurring in foreign countries under the Alien Tort Statute.
- And **Federal Republic of Germany v. Philipp (No. 19-351)**, a case that basically asks whether the descendants of several Jewish art dealers who were German nationals, can sue Germany and one of its state-owned museum in the United States, seeking the return of a collection of medieval artifacts their ancestors sold to the German government in 1935 (allegedly under duress) and that are still on display in Berlin. That one might not be on (m)any lists of the OT20 term's big cases, but it's of some note to us, since Wiggin and Dana represents Germany in that case.

And that's just the list so far, with many more cases yet to be added to the Court's upcoming term. If this sounds like something you'd like to hear about, you can subscribe by sending an email to Wiggin and Dana's **marketing team**, or to **Tadhg Dooley** or **Dave Roth**.

Claire Coleman

Claire Coleman is a Wiggins alum who serves as Undersecretary for Legal Affairs for the Connecticut Office of Policy and Management.



Briefly, what does your job entail?

Well, since **OPM** is responsible for policy, planning, budgeting and management all of state government—the job can pretty much involve every aspect of state government. But I’m focused most on the intersection of the law and the administration’s budget and legislative initiatives.

Can you give a few examples?

Sure. I provide advice on legal issues that inevitably come up in preparing the Governor’s budgets. I help OPM assess the legal, fiscal, and policy effects of proposed legislation and initiatives. It’s also part of my job to review and approve regulations proposed by all executive branch agencies before they’re submitted to the Governor’s Office and the Attorney General. I’m also one of the people involved—with the AG’s Office and the Governor’s legal team—in assessing major litigation and the possible budget impact of proposed settlements. And I represent OPM on a number of state-wide initiatives, such as the Governor’s Council on Climate Change, the Social Emotional Learning and School Climate Collaborative, and the Governor’s **GreenerGov** initiative (his first executive order), which aims to make state government operations more sustainable.

What’s a typical day like for you now? Have you been you close to 100% COVID all the time?

Like everything else in the world, my job changed dramatically from the day the Governor declared a public health emergency. For a while, most of my time was devoted to assisting the Governor’s legal team in drafting and updating the Governor’s **Emergency Executive Orders**. I’ve focused in particular on the needs of Connecticut municipalities and the distribution of federal relief funds, and I’ve worked with the State Department of Education on the extraordinary challenges COVID-19 has brought to our public education system. Basically, that means a mix of meetings, advising, and drafting—all day, every day.

How did you end up in this position?

I was lucky, I think, that the extraordinary breadth of this job kind of matched the wide range of things I’d done professionally—which at various times has involved litigation, policymaking, regulatory work, and politics. In other words, not having followed a linear career path is part of what made me well-suited to this job. And it’s given me the confidence to fluidly jump from litigation to regulatory issues to legislative matters.

You’ve had a few prior roles, including working on Capitol Hill as counsel on the House Oversight and Government Reform Committee. How have those roles helped prepare you for this job?

In addition to the many differences between state and federal government, working in the legislative branch is very different from working in the executive branch. On the House committee staff, I did investigative work and focused on preparing for hearings on investigations and major policy issues. That helped me learn to do a deep dive very quickly into new policy areas—and that did prepare me well for my current job. My private practice experience at Wiggins and Dana and Sullivan & Cromwell absolutely prepared me to evaluate and provide advice to the Secretary on complex litigation. And my work at Connecticut Fund for the Environment (Save the Sound) gave me a chance to get my feet wet, so to speak, and become familiar with Connecticut’s political landscape.

What’s the relationship between your position, the Governor’s General Counsel, and the AG’s Office?

I consult with them all the time. For example, I worked closely with both offices and the State Department of Education on the recent settlement in the **Sheff v. O’Neill** school desegregation case, which places the state on a path to end 30 years of litigation over how to reduce racial isolation of Hartford public school students.

I’m assuming that everyone in the State government has been in 24/7 crisis mode since March. What do you do to keep yourself off the ledge?

First of all, I’m not alone. I’m surrounded by incredible colleagues who are tirelessly problem-solving every day on COVID-19 issues. My 10-year old daughters remind me that I’m doing important work (even when I often don’t have time to help them with their schoolwork), and that helps too. Hopefully it will inspire them to seek out rewarding careers in public service.

MajorCASE

Philipp v. Federal Republic of Germany

Wiggin and Dana will be arguing a case before the U.S. Supreme Court on behalf of the Federal Republic of Germany. In our last newsletter, we noted that the firm represents the government of Germany and its Berlin museums in a suit concerning a large collection of medieval German art. The plaintiffs claim to be descendants of a consortium of art dealers who bought the artwork in 1929 from the family of Queen Victoria. The stock market crashed two weeks later, jumpstarting the Great Depression and making it difficult for the art dealers to sell the collection. They eventually found an undisclosed buyer in 1935, which turned out to be the state of Prussia. The plaintiffs claim that the art dealers were Jewish, and that the sale was not voluntary, but rather was a below-market sale caused by discrimination during the pre-war years of the Nazi regime.

The plaintiffs initially brought their claims before a German advisory commission, which determined that the sale was an arm's-length transaction at a fair market price. Disappointed with that result, the plaintiffs chose to bypass Germany courts and sue in the U.S. This raises several troubling questions, including whether there is jurisdiction over Germany under the Foreign Sovereign Immunities Act (FSIA) and whether the court should abstain from hearing the case under principles of international comity. A divided D.C. Circuit panel held that U.S. courts should hear the case, but the U.S. Supreme Court granted certiorari to decide whether the D.C. Circuit was right. The Wiggin team—which includes Partners **Jonathan Freiman**, **David Hall**, and Tadhg Dooley and Counsels **Benjamin Daniels** and **David Roth**—filed the merits brief on September 4, and anticipates an argument date sometime in late 2020 or early 2021.

AlumniNOTES

If you'd like to share your recent personal or professional accomplishments with other Wiggin alums, reach out to us at alumni@wiggin.com.

Amos Friedland: At the beginning of the new year, W&D alum Amos Friedland left Boies Schiller Flexner (BSF) with a group of colleagues to found a new litigation boutique, Roche Cyrulnik Freedman (RCF). The twenty-lawyer RCF is currently based out of NYC, Miami, and Los Angeles, and litigates cutting edge tech, finance, cryptocurrency, cannabis, and general complex business disputes, on both sides of the “v.”—including a dozen multibillion-dollar class actions filed over the last several months. Amos and his BSF/RCF colleagues have collaborated frequently over the past years with W&D, and look forward to additional opportunities to work together going forward!

Rob Huelin: “I’m still in charge of all things legal at Wireless Zone, although my office has relocated to my bedroom. Like many of you, I am struggling to keep a feeling of distance between home and work. With so many people working from home, mobile phones and network devices have become *the* hot retail item, so business is good. I’ve learned more than I ever wanted to know about the scope of a governor’s executive authority, the yellow-fever origins of our many “contagion” laws, and the complications of monitoring non-exempt employees who are working remotely. I sense a “pandemic law” seminar coming to law

schools everywhere! At home, I am trying to get my twins ready for the SAT and college selection—a tough task when the only visits are virtual. But we are healthy and well, and I wish the same for everyone reading this!”

Seth Huttner: “Hard to believe it’s coming up on ten years since I last strolled through the Wiggin and Dana hallways. During that time I’ve had only one employer, though not the same job. I spent the first six years at Pratt & Whitney, where I worked on all types of domestic and international matters, but slowly migrated back to my litigation roots. A little less than four years ago I moved over to the litigation group at “Corporate,” meaning United Technologies (now Raytheon Technologies) Corporation itself. Over the last few years, I’ve been caught up in some of the larger transactions in corporate America; first UTC’s acquisition of Rockwell Collins in late 2018, then the simultaneous spins of Otis and Carrier and mega-merger of UTC and Raytheon in April. Fascinating to see it play out, though somewhat disappointing to do it from my house rather than in person with all my new colleagues. On the home front, my daughter had a video-Bat Mitzvah in July (with about 20 close friends and family there in person) and my 9-year-old son and I started the slow journey to climb the highest points of all the local states (and, maybe, beyond). We just took Tuckerman’s Ravine trail up Mt. Washington to close out August (see photo on page 1). Nothing like it! Best wishes to all my fellow alums and current Wiggin and Dana attorneys.”