

## LEADING COMMERCIAL LITIGATORS 2024



**KANNON K.  
SHANMUGAM**

Paul, Weiss, Rifkind, Wharton  
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Washington, D.C.

Supreme Court &  
Appellate Litigation

**K**annon K. Shanmugam chairs his law firm's Supreme Court and appellate litigation group, and this fall, he also became one of its litigation department co-chairs. He argues appeals all over the country, and, in

fact, his next two arguments are before the Nevada and Oklahoma Supreme Courts.

But even though he is based in Washington and has many cases there and in the Second Circuit, he also argues many in the Ninth Circuit. "My very first Ninth Circuit argument ... was for America Online," he said. "That gives you some sense of how long I've been practicing there."

The day after Christmas, he won a very high-profile victory in a criminal case there when the court threw out former U.S. Rep. Jeff Fortenberry's conviction for lying to federal agents. *U.S. v. Fortenberry*, 2023 DJDAR 12030 (9th Circ., dec'd Dec. 26, 2023).

The case turned on what Shanmugam said was "a pretty straightforward issue, really. Where does the government have venue in cases involving false statements?"

The Nebraska Republican was prosecuted in Los Angeles, where the FBI field office was running a wide-ranging investigation into campaign financing. But his lies were during interviews in Nebraska and Washington.

The Ninth Circuit held that proper venue is where the statements are made, voiding Fortenberry's conviction.

"It's a significant decision ... because this theory is one that the government has tried in a number of other cases, with courts coming out in different

directions on the issue," Shanmugam said.

A substantial share of Shanmugam's practice over the last couple of years has been defending CNA insurance companies' denials of claims for business losses during the pandemic. "We have been unanimously successful to date" in 10 cases around the country, including two in the Ninth Circuit. "This is an enormous issue because it involves potentially huge liability for the insurance industry," he said.

After the Fortenberry reversal, his most significant wins in the past year were three cases at the Second Circuit involving very large dollar figures. In *ATRS v. Goldman Sachs*, he blocked a \$13 billion class action growing out of the 2008 financial crisis. In *Fikes Wholesale v. HSBC Bank USA*, he successfully defended a \$5.6 billion settlement of a private antitrust case about interchange fees on credit card transactions. And in *Syntel v. TriZetto*, he overturned a \$570 million damages award in a high-profile trade secrets case.

Shanmugam has argued 36 cases at the Supreme Court, and this year, he'll argue two more. In February, he'll represent Warner Music in a case about the limitations period for copyright damages. His case in March deals with the taxation of certain life insurance proceeds.

— DON DEBENEDICTIS