



Mark F. ("Thor") Hearne, II

Partner

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Education

Washington University School of Law, JD
Washington University in St. Louis, BA

Admissions

District of Columbia
Michigan
Missouri
Supreme Court of the United States
U.S. Court of Appeals for the Federal Circuit
U.S. Court of Appeals for the Second Circuit
U.S. Court of Appeals for the Fourth Circuit
U.S. Court of Appeals for the Sixth Circuit
U.S. Court of Appeals for the Seventh Circuit
U.S. Court of Appeals for the Eighth Circuit
U.S. Court of Appeals for the Eleventh Circuit
U.S. Court of Federal Claims

Thor Hearne is a partner with Larson O'Brien LLP. Mr. Hearne has earned a national reputation for his work in complex federal and state litigation, appeals, and class actions, especially matters involving property rights; constitutional law; and election issues. In 2014, the National Law Journal named Mr. Hearne one of Fifty Litigation Trailblazers and Pioneers in the country. In 2013, the National Law Journal recognized Mr. Hearne as a pre-eminent national trial and appellate attorney for his work in class-action eminent domain litigation.

Mr. Hearne's courtroom successes have made him a sought-after speaker at top eminent domain CLE conferences, including the Brigham-Kanner Property Rights Conference at William & Mary Law School, where he serves as a member of the Advisory Council. He is a faculty member on the ALI-CLE Eminent Domain and Land Valuation Litigation Conference. Mr. Hearne was selected by the judges of the Court of Federal Claims to serve on the Court's Advisory Council and takings committee.

Prior Experience

Mr. Hearne is nationally-recognized for his practice before state and federal trial and appellate courts. Over the past two decades, Mr. Hearne has served as lead counsel, representing more than a thousand landowners in sixteen states in takings claims arising from the enactment of Section 8(d) of the Trails Act. Mr. Hearne has successfully represented clients before the US Supreme Court, state supreme courts, and other trial and appellate courts. One of Mr. Hearne's recent arguments before the Missouri Court of Appeals was highlighted as part of the Washington University Appellate Advocacy Program.

Mr. Hearne is also one of the nation's preeminent political and election law attorneys. He served as President George W. Bush's national election counsel in 2004, and as then-candidate George W. Bush's lead counsel in Missouri in 2000, when he won the landmark case *Bush-Cheney v. Baker*. He was an advisor to the Carter-Baker Commission on Federal Election reform and has testified on election law matters before the U.S. Senate, the U.S. House of Representatives, the U.S. Commission on Civil Rights, and the U.S. Election Assistance Commission. Mr. Hearne has written numerous articles on various topics of constitutional and election law, as well as Fifth Amendment Takings.

Representative Matters

- *Harris v. Arizona Independent Redistricting Commission*, 136 S.Ct. 1301 (2016). Thor represented Arizona citizens and voters in a U.S. Supreme Court challenge of the 2012 redistricting plan for Arizona state legislative districts. Thor argued this case before the Supreme Court this in December 2015.
- *Trinity Lutheran Church of Columbia, Inc. v. Comer*, 137 S.Ct. 2012 (2017). Thor was counsel for the National Association of Evangelicals as an amicus party in this First Amendment religious freedom case challenging the Missouri state constitution's "Blaine Amendment," which prohibits state aid to any religiously affiliated entity. The Supreme Court ruled in favor of the challengers' position, holding, "the exclusion of Trinity Lutheran from a public benefit for which it is otherwise qualified, solely because it is a church, is odious to our Constitution all the same, and cannot stand."
- *Brott v. United States*, 858 F.3d 525 (6th Cir. 2017). Thor represents a group of Michigan property owners challenging the Tucker Act's prohibition on filing taking cases against the United States over \$10,000 in an Article III court with the right to trial by jury. The landowners petitioned for Supreme Court review and were supported by amicus briefs filed by twenty esteemed property rights organizations and legal scholars.
- *Brandt v. United States*, 134 S.Ct. 1257 (2014). Thor was counsel for amici curiae Cato Institute, American Farm Bureau Federation, American Land Title Association, National Cattlemen's Beef Association, Public Lands Council, and Property Law Professors James Ely, Jr., Richard Epstein, Donald Kochan, and Dale Whitman in a case filed by the U.S. government against a Colorado ranching family. The decision set a major precedent with regard to Trails Act litigation involving the General Railroad Right-of-Way Act of 1875, which affects thousands of acres of property across the United States.
- In *St. Bernard Parish Government v. United States*, Nos. 2016-2301, 2016-2373 (Fed. Cir. 2017), served as lead counsel for amici curiae in a matter related to takings claims arising from the government's construction and operation of the Mississippi River Gulf Outlet.
- In *Lee, et al. v. Virginia State Board of Elections*, 188 F. Supp.3d 577 (E.D. Va. 2016), affirmed 843 F.3d 592 (4th Cir. 2016), served as special counsel on appointment by Virginia's Attorney General to defend the state's photo-voter ID law. As lead trial and appellate counsel, Mr. Hearne successfully defended the Virginia law in a two-week trial in the Eastern District of Virginia and then successfully represented the Commonwealth before the U.S. Court of Appeals for the Fourth Circuit.
- In *Palmer Ranch v. Commissioner of Internal Revenue Service*, T.C. Memo 2014-79 (US Tax Court 2013), affirmed, 812 F.3d 982 (11th Cir. 2016), successfully represented a family in two-week trial before the US Tax Court regarding a \$83 million dollar dispute with the IRS.
- In *Zoltek Corp. v. United States*, 815 F.3d 1302 (Fed. Cir. 2016), successfully represented Zoltek, Inc. in a patent infringement lawsuit before the Court of Federal Claims and related appeals to the Federal Circuit.
- In *Childers v. United States*, 116 Fed. Cl. 486 (2013), obtained a \$5.7 million award for property owners following a trial before the Court of Federal Claims.
- In *McCann Holdings, Ltd. v. United States*, 111 Fed. Cl. 608 (2013), obtained a \$3.2 million trial judgment for Florida property owners after a trial before the Court of Federal Claims.

- In *Ladd v. United States*, 713 F.3d 648 (Fed. Cir. 2013), successfully represented a class of Arizona property owners in Fifth Amendment takings claim, including landmark, precedent-setting appeals arising from the issuance of a Notice of Interim Trail Use under the Trails Act.
- Successfully represented scores of landowners in Fifth Amendment takings lawsuits related to property throughout the United States, including in Florida, South Carolina, Michigan, Arizona, New York, Wisconsin, Missouri, Kansas, Oregon, Georgia, Nebraska, Illinois, Indiana, Kentucky, North Carolina, and Tennessee.
- In *Bush-Cheney, 2000, Inc. v. Baker*, 34 S.W.3d 410 (Mo. Ct. App. 2000), represented President Bush and the Bush-Cheney presidential campaign, obtaining an emergency appellate order regarding the legal closing hour of polls.
- In *Corbett v. Sullivan*, 202 F. Supp. 2d 972 (E.D. Mo. 2002), represented Plaintiffs in a successful federal civil rights redistricting litigation of St. Louis County, Missouri.