



→ Paul A. Werner

Partner

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Paul Werner is a partner in the Business Trial Practice Group and served as the Practice Group Leader for many years. He is a member of the Firm's Executive Committee and is a past member of its Compensation Committee. Paul is resident in the Washington, D.C. office.

Areas of Practice

Paul is a seasoned first-chair litigator, whose prodigious representations over the past decade have been before diverse decision-making authorities, including all levels of courts and administrative tribunals, federal and state and arbitral tribunals, and spanned a wide range of complex litigation matters. These matters have run the gamut from "bet-the-company" commercial disputes to controversies involving statutory, constitutional, communications, energy, environmental, insurance, intellectual property, false advertising, trade secrets, privacy and administrative law issues.

Paul regularly represents cable operators, telecommunications and other broadband providers in matters involving communications law issues, including local franchising, PEG programming, rights-of-way, pole attachments and infrastructure deployment and a host of other related issues. He represents providers on these issues in state and federal courts and participated in rulemakings and adjudications before the U.S. Federal Communications Commission (FCC).

Paul also often defends a diverse array of companies against putative class actions, particularly suits involving claims of unfair competition, state consumer protection statutes and products liability. He has represented major automobile manufacturers against putative class actions alleging design defects and other consumer protection claims. He is currently representing a named defendant in a series of putative class actions that have been consolidated in an MDL seeking billions in damages in connection with the promotion, sale and distribution of opioid medications. *See In re: National Prescription Opiate Litigation* (1:17-md-02804). In addition, recently, Paul successfully represented an association of communications providers in defeating certification of a putative class of landowners seeking damages for alleged unauthorized "telecommunications" use of easements they had granted to an electric utility, and he is currently defending the trial court's decision on appeal.

Paul also represents diverse clients in domestic and international arbitration matters. Paul recently represented a Korean satellite telecommunications provider in complex and high-stakes international arbitration proceedings, including lengthy evidentiary hearings, stemming from a dispute that *The Wall Street Journal* called an "outer-space turf war."

Paul is additionally experienced in representing companies in governmental and internal investigations. He represents clients in criminal and civil investigations, including investigations arising under the False Claim Act, the Anti-Kickback Act and the FCC E-Rate program.

Paul's practice includes significant trial and appellate experience. In recent years, he has tried multiple disputes to judgment. He also recently assisted with a lengthy trial in federal court involving false advertising claims that resulted in a favorable jury verdict. Paul also regularly represents clients in state and federal appellate courts, including the U.S. Supreme Court.

Paul's matters are regularly reported in the media, including *Law360*. He is also a recognized expert and frequent commenter on communications and technology law issues. He is a professor of law at Vanderbilt University Law School and teaches in the area of technology and communications law and policy.

Paul is dedicated to pro bono representations and public interest litigation. On behalf of a community organization, Paul successfully obtained an appellate decision overturning a trial court decision that had upheld a planning board's approval of a commercial water bottling operation in an environmentally-protected area with trailheads into the Catskill mountains. He is currently representing an environmental organization in federal court litigation arising under the Environmental Species Act, as well as a separate not-for-profit organization in environmental litigation arising under the Clean Water Act concerning the Bristol Bay region of Southwest Alaska.

Honors

Gardner Gillespie Environmental Pro Bono Award, 2024

Who's Who Legal: Telecoms, Media & Entertainment, 2024

Best Lawyers in America, *Best Lawyers*, 2024

"Highly Recommended" for Telecoms and Broadcast: Regulatory, *Legal 500 US*, 2012-2023

'From a litigation perspective, Paul Werner has the ability to filter through issues and determine the approach most likely to lead to a positive outcome which he has achieved many times. He has a measured, thoughtful approach and comes exceptionally well-prepared for trial.' (*Legal 500 US*)

Leading U.S. Litigator, *Lawdragon*, 2022-2023

Washington D.C. Super Lawyer, *Super Lawyers*, 2014-2016

Experience

Representative Matters

- Obtained a landmark appellate victory for not-for-profit organization at Ninth Circuit Court of Appeals for not-for-profit organization on issue of first impression under the Clean Water Act and Administrative Procedure Act. *Trout Unlimited et al. v. Pirzadeh et. al.*, No. 20-35504, 2021 WL 2460989 (9th Cir. June 17, 2021).
- Successfully represented national cable operator at Seventh Circuit Court of Appeals and Southern District of Indiana in case affirming that Section 621 of the federal Cable Act authorizes cable operators' compatible use of easements dedicated to utility purposes. See *West v. Louisville Gas & Elec. Co. et al*, No. 4:16-cv-00145RLYTAB, 2018 WL 321686 (S.D. Ind. Jan. 8, 2018), *appeal dismissed*, 920 F.3d 499 (7th Cir. 2019), and *aff'd sub nom.* No. 19-2442, 2020 WL 995774 (7th Cir. Mar. 2, 2020).

- Obtained unanimous victory on issue of first impression with broad implication for cable industry in case briefed and argued before Texas Supreme Court. *Time Warner Cable Texas LLC v. CPS Energy*, No. 17-0840, --- S. W.3d ---, 2019 WL 2147257 (Tex. May 17, 2019).
- Won a preliminary injunction in favor of nearly a dozen communications providers that led to favorable resolution of federal court litigation against the City of Baltimore involving Section 253 of the federal Communications Act.
- Successfully represented the California Cable and Telecommunications Association in defeating certification of a class of statewide landowners seeking injunctive relief and damages for alleged wrongful "telecommunications" use of easements they granted to an electric utility.
- Won summary judgment in favor of a cable operator in long-running federal court litigation brought by a local franchising authority claiming millions of dollars in damages for an alleged breach of the franchise agreement. (*Mecklenburg County v. Time Warner Entertainment-Advance/Newhouse P'ship*, 2010 WL 391279 (W. D.N.C. 2010)).
- Won summary judgment in favor of a cable operator in federal court litigation brought by local franchising authorities alleging violation of Public, Educational and Governmental obligations.
- Defended cable operator through a weeks-long trial of a state court action brought by an investor-owned electric utility claiming the operator owed millions of dollars in back pole attachment fees for allegedly providing "telecommunications services."
- Defended an international automobile manufacturer in coordinated putative class actions involving products liability and state consumer protection statutes based on allegations of defective alignment systems and consequent tire wear. (*In Re LR3 Litigation* (MDL 2008)).

Articles

- Continuity of Care Obligations Under the No Surprises Act: A Practical Approach on Avoiding "Surprise" Liability and Patient Bills Under State and Federal Laws
American Health Law Association, 10.30.2023
- Ninth Circuit's plain text ruling on Rule 45 won't be the last word
Daily Journal, 08.24.2023
- Breaking Down The Long-Awaited HHS Info Blocking Rule
Law360, 08.15.2023
- Health Care Info Blocking Rule Changes To Watch For
Law360, 06.29.2023
- One "Chirp, Buzz, Or Blink" is Not enough to Sue Under the TCPA
San Diego Defense Lawyers, Fall 2019

Class Action Defense Strategy Blog

- "Supreme Court Punts On Whether FCC's Interpretation of the TCPA Binds Federal Courts," September 3, 2019
- "Second Circuit Affirms "Snap" Removal Practice," March 29, 2019
- "Supreme Court Poised To Alter TCPA Landscape With Review Of Key Term 'Advertisement'," November 15, 2018

- "5 TCPA Class Action Trends to Watch in 2018 – Legislation, Administrative Law & Litigation," February 28, 2018
- "Spokeo—Round 3: The Ninth Circuit Finds Alleged Statutory Violation Sufficiently “Concrete” To Satisfy Article III Standing," August 29, 2017
- "You Can't Always Get What You Want—Second Circuit Affirms Parties Can Bargain Away TCPA Right To Revoke Consent To Automated Calls," July 12, 2017

Eye on Privacy Blog Posts

- "Six Things You Need to Know Before Collecting Biometric Information," June 2, 2016

FCC Law Blog Posts

- "With Net Neutrality Order, FCC Grants Broadband-Only ISPs New Pole Attachment Protections," May 6, 2024
- "FCC Adopts New Pole Attachment Rules to Promote Broadband Expansion," December 18, 2023
- "FCC To Vote on New Pole Attachments Rules to Promote Broadband Expansion," December 4, 2023
- "Fifth Circuit Pauses Injunction Restricting Communications Between the Government and Social Media Companies Over Content Removal," July 31, 2023
- "Sunshine State Becomes 24th to Certify Regulation of Pole Attachments," June 14, 2022
- "Sixth Circuit Affirms FCC Rule That Most In Kind Contributions Are Franchise Fees," June 2, 2021
- "Ninth Circuit Rejects Challenges to FCC's One-Touch Make-Ready, Small Cell Deployment, and Local Moratoria Orders," August 18, 2020
- "Virgil Quick Come See: FCC Drives Down Local Government Regulation of Cable Operators," August 2, 2019
- "D.C. Circuit Hears Challenge To Federal Communications Commission's 2018 Restoring Internet Freedom Order," February 4, 2019
- "Supreme Court Poised To Alter TCPA Landscape With Review Of Key Term 'Advertisement'," November 17, 2018
- "As The “Net Neutrality” World Turns" November 7, 2018
- "Lucia Is Likely To Have Little Impact On Waning FCC Adjudications," July 17, 2018
- "FCC Seeks “Large Step” Toward Advancing Broadband Infrastructure Goals With Draft One-Touch Make-Ready Order," July 16, 2018
- "Back To The Future: FCC Returns To Light Touch Regulation Of The Internet," June 13, 2018
- "Once Bitten, Twice Shy: FCC Revisits Its Telemarketing Regulations In Light Of The DC Circuit's Decision Striking Down Core Requirements," June 1, 2018
- "Ninth Circuit Removes FTC From The Beat: Agency Lacks Authority To Police Common Carriers Engaged In Non-Common Carrier Activities," September 8, 2016
- "Sixth Circuit Rejects FCC's Effort To Preempt State Regulation Of Municipal Broadband Providers," August 11, 2016
- "Patient Zero – Public Knowledge Seeks FCC Review of A New “Zero Rated” Service," March 14, 2016
- "FCC Warns Broadband Internet Service Providers Of Coming Expanded Title II Privacy Regulation," May 29, 2015

- "Cyberspace Oddity: The FCC Regulates Internet Services as Common Carrier Telecommunications Services, 'Protecting and Promoting the Open Internet,'" February 27, 2015
- "The Eleventh Circuit Reaffirms FCC's Authority To Coordinate National TCPA Policy And Ensure Uniformity Of Enforcement in *Mais v. Gulf Coast Collection Bureau*," October 16, 2014
- "Ninth Circuit Thinks Inside the Bun, Applies Traditional Agency Principles To Dismiss Putative TCPA Class Action Claims Against Taco Bell Corp." July 17 2014
- "Call Me Maybe?: The New TCPA Position Announced by The Federal Communications Commission in *Nigro v. Mercantile Adjustment Bureau*," July 7, 2014
- "Supreme Court Sides with Broadcasters in *Aereo* Decision," June 30, 2014
- "North Carolina Court Issues First Decision Controlling Coop Pole Attachment Rates," May 29, 2014
- "Once More Unto the Breach: the FCC Calls for Comments on Revamping Net Neutrality Regulations," May 16, 2014
- "Twice Bitten But Not Shy, The FCC Is Handed The DC Circuit's Prescription for Internet Regulation," January 20, 2014

Healthcare Law Blog Posts

- "Laboratory and Pathology Information Blocking Concerns," May 12, 2023
- "D.C. Circuit Gives New Life to CMS Overpayment Rule," August 17, 2021

Media Mentions

Feds, Backers Fight Alaska's High Court Effort To Revive Mine
Law360, 11.09.2023

Knockout/Octo Holdings Slaps Former Exec With \$150M Defamation Suit for Allegedly Making Disparaging Comments During Proposed Acquisition
ALM, 07.21.2023

Specialty Pharmacy Sues Blue Cross Blue Shield of Wyoming
Casper Star Tribune, 04.08.2023

Just the Fax: 3rd Circ. Declines to Apply FCC's 'Free-SeminarPretext Theory' to TCPA Junk Fax Claims
The Legal Intelligencer, 01.31.2023

3rd Circ. Affirms Drug Testing Lab's Escape From TCPA Suit
Law360, 01.19.2023

Judge Tosses Trump-Era Pebble Mine Approval in Bristol Bay
Bloomberg Law, 11.01.2021

EPA Says Decision Paving Way For Pebble Mine Must Go
Law360, 09.29.2021

EPA Moves To Block Pebble Mine Again

Law360, 09.09.2021

EPA Reversal on Pebble Mine Pollution Limits is Reviewable

Bloomberg Law: Environment & Energy, 06.17.2021

9th Circuit revives lawsuit over Alaska's Pebble Mine project

Reuters, 06.17.2021

9th Circ. Says EPA's Move On Alaska Mine Can Be Challenged

Law360, 06.17.2021

FCC Defends C-Band Clearing to DC Circuit

Communications Daily, 10.29.2020

Enviros Can Restart Alaska Mine Suit Despite COVID-19 Stay

Law360, 04.10.2020

Enviros Seek Restart In Alaska Mine Suit Despite Virus Pause

Law360, 04.07.2020

7th Circ. Lets Charter Run Fiber Over Litigant's Land

Law360, 03.03.2020

Native, Green Groups Want Pebble Mine Restrictions Revived

Law360, 02.03.2020

Telecommunications Group Of The Year: Sheppard Mullin

Law360, 01.22.2020

The Biggest Telecom Developments Of 2019

Law360, 12.20.2019

EPA Says It Can't Be Sued For Nixing Pebble Mine Restrictions

Law360, 12.11.2019

Fishing Industry News: Trout Unlimited Sues EPA; Florida Moves to Protect Shoal Bass

Grand View Outdoors, 10.14.2019

Daily Dicta: Sheppard Mullin Goes Fishing for Justice

Law.com, 10.10.2019

EPA Sued For Lifting Restrictions On Pebble Mine Project

Law360, 10.09.2019

Trout Unlimited Joins Legal Fray over EPA's Pebble Mine Plan

Bloomberg Environment, 10.09.2019

Texas Justices Side With Time Warner In Utility Fees Row

Law360, 05.17.2019

Appeal Of Charter's Exit From Tower Suit Premature: 7th Circ.

Law360, 04.05.2019

Time Warner Tells Texas Justices Utility's Fees Discriminatory

Law360, 01.24.2019

Lawyers: Legal forecast uncertain for broadcast streaming service Locast

S&P Global Market Intelligence, 10.04.2018

U.S. Is Expanding Power to Block Chinese Firms. HNA Was Already No Match.

The New York Times, 08.02.2018

An Uncertain Future for Administrative Law Judges at the FCC

S&P Global Market Intelligence, 07.26.2018

Analysis: FCC's Character Concerns Imperil More than Sinclair's Tribune Deal

Broadcasting & Cable.com, 07.20.2018

An Uncertain Future for Administrative Law Judges at the FCC

S&P Global Market Intelligence, 06.27.2018

Satellite Operator Blasts 'Baseless' Challenge To \$1M Award

Law360

Law360: DC Circ. Partly Strikes Down FCC's TCPA Expansion

03.16.2018

Developments to Watch After the Net Neutrality Vote

Law360, 12.15.2017

Top 4 Groups Lobbying The FCC

Law360, 12.05.2017

What We Know About The Upcoming Net Neutrality Vote

Law360, 11.21.2017

Defamation Lawsuit Involving Rival Tungsten Product Manufacturers Brought to Pennsylvania Federal Court

Pennsylvania Record, 11.14.2017

Net Neutrality Comments Marked By Duplicates, Study Says

Law360, 08.30.2017

UGV Vendors Take National Security Dispute to Court

Robotics Business Review, 07.28.2017

Top 5 Groups Lobbying The FCC

Law360, 06.07.2017

FCC's Net Neutrality Plan Sets Up Repeal Without Replace

Law360, 04.28.2017

FCC's Infrastructure Votes Pave Way For Bold 5G Push

Law360, 04.21.2017

DC Circ.'s Delay On Net Neutrality Points To Wider Holdup

Law360, 03.15.2017

Zero-Rating Compliance: Easy as Pai?

Telco Transformation, 03.06.2017

New FCC Looks Poised To Overrule Local Barriers To 5G

Law360, 02.09.2017

Telecom Cases To Watch In 2017

Law360, 01.02.2017

Set-Top Box Plan Likely To Headline Active FCC Meeting

Law360, 09.28.2016

FCC's Municipal Broadband Loss Cuts Off Policy Options

Law360, 08.17.2016

Telecom Cases To Watch For The Rest Of 2016

Law360, 07.13.2016

The Biggest Telecom Cases So Far In 2016

Law360, 07.08.2016

Net Neutrality: What's Next for FCC's Open Internet Rules

Variety, 06.17.2016

Is the net neutrality fight over?

Cnet, 06.15.2016

Telecoms Proceed With Leaner Baltimore Rate Hike Suit

Law360, 06.15.2016

Net Neutrality Win Is Vindication For Wheeler's FCC

Law360, 06.14.2016

Net Neutrality Opponents Weighing Next Move

Bloomberg BNA, 06.14.2016

Sheppard Mullin Chases the Cool Quotient in D.C.

The National Law Journal, 09.08.2014

Speaking Engagements

"CMS' Medicare Advantage Overpayment Rule Takes a Permanent Vacation: What's Next for Payors and Providers Alike," Sheppard Mullin Healthcare Webinar, October 16, 2018

Events

Class Action Disputes – EU, UK and US Perspectives
Zoom Webinar, 05.21.2024

Preparing for a Post-COVID World - What Retailers Need to Get in Place Now
Webinar, 04.23.2020

CMS' Medicare Advantage Overpayment Rule Takes a Permanent Vacation: What's Next for Payors and Providers Alike
Sheppard Mullin Healthcare Webinar
10.16.2018

Memberships

Member, Federal Communications Bar Association

Member, The Historical Society of the District of Columbia Circuit

Podcasts & Webinars

Preparing for a Post-COVID World: What Retailers Need to Get in Place Now
04.23.2020

Nota Bene Episode 14: Net Neutrality Essentials with Paul Werner
12.05.2018

Practices

Litigation

Alternative Dispute Resolution

Appellate

International Reach

International Arbitration

Telephone Consumer Protection Act (TCPA)

Governmental Practice

False Claims Act

Appellate

ESG and Sustainability

International Arbitration

Trade Secrets

Industries

Automotive
Blockchain
Blockchain and Fintech
ESG and Sustainability
Fintech
Healthcare
Space & Satellite
Telecom

Education

J.D., Vanderbilt University Law School, Editor in Chief, *Vanderbilt Journal of Entertainment Law & Practice*, 2002, *Order of the Coif*

B.A., University of California, Los Angeles, 1999, *summa cum laude*

Clerkships

Law Clerk to The Honorable Karen LeCraft Henderson of the U.S. Court of Appeals for the District of Columbia Circuit

Admissions

District of Columbia
New York
Virginia
U.S. Supreme Court
U.S. Court of Appeals for the District of Columbia Circuit
U.S. Court of Appeals for the Second Circuit
U.S. Court of Appeals for the Third Circuit
U.S. Court of Appeals for the Fourth Circuit
U.S. Court of Appeals for the Fifth 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 Ninth Circuit
U.S. Court of Appeals for the Eleventh Circuit
U.S. Court of Appeals for the Federal Circuit

U.S. District Court for the District of Columbia

U.S. District Court for the Eastern District of Michigan

U.S. District Court for the Eastern District of Virginia

U.S. District Court for the District of Colorado

U.S. District Court for the Western District of Texas