

## Thomas F. Ahearne

Principal

1111 Third Avenue  
Suite 3000  
Seattle, WA 98101

T 206.447.8934  
F 206.749.1902  
ahearne@foster.com



Tom Ahearne has over 30 years of trial court and appellate experience. His cases commonly focus on (1) high profile constitutional, statutory, & election related litigation, (2) coverage claims against insurance companies, and (3) representing victims of cyber attacks, cyber fraud, and cyber crime.

### **Constitutional Law, Statutory Rights, & Elections:**

Examples include (a) constitutional compliance suits (e.g., the multi-billion dollar *McCleary* school funding litigation), (b) election disputes (e.g., the series of state & federal lawsuits over the Rossi/Gregoire Governor's race decided by 133 votes out of over 2.8 million), (c) ballot title, certification, & legal challenges (e.g., Initiatives 1234, 1776, 1000, 933, 895, 892, 885, 884, 864, 860, 773, 732 & Referendum 88), (d) Public Records Act suits (e.g., those regarding the Marysville High School & Seattle Pacific University shootings), and (e) suits over the validity of statutes & initiatives (e.g., defending Washington's Top-Two primary system in the U.S. Supreme Court & invalidating various Tim Eyman ballot measures). Frequent speaker at national conferences on these topics.

### **Services**

Litigation  
Appellate  
Constitutional Law  
Insurance Coverage  
Education Law/School Districts  
Elections & Political Law  
Privacy, Cybersecurity & Data Protection  
Public Records & Open Government  
Public Finance & Municipal Government

### **Admissions**

Washington (1984)  
U.S. District Court, Western District of Washington (1984)  
U.S. District Court, Eastern District of Washington (1991)  
U.S. Court of Appeals, Ninth Circuit (1991)  
United States Supreme Court (2006)  
Numerous *pro hac vice* admissions across the country

**Insurance Coverage:** Representing policyholders & claimants in a wide array of state & federal court lawsuits since the 1980s; frequent speaker on insurance coverage at legal education seminars & industry association conferences; Best Lawyers® 2011 Seattle Insurance Law “Lawyer of the Year”.

**Cybercrime:** Representing clients victimized by cyber intrusion, cyber fraud, and cyber crime with response, recovery, & legal compliance; advising on protection, prevention, & legal liability mitigation planning for clients wishing to take affirmative steps to curtail the danger of such losses.

### Education

- University of Chicago, J.D. *with honors* (1984)
- University of Notre Dame, B.A., Economics, *magna cum laude* (1981)
- Princeton University, Preschool, *with crayons* (1964)

### Some Honors & Recognition

- *The Best Lawyers in America*® – Insurance Law (2007-present)
- *Washington Super Lawyers* – Super Lawyer selection (2000-present) – [“Paramount Duty - Thomas Ahearne Wins One For Public Education”](#) (2012); *The Super Lawyers Blog* – [“Thomas Ahearne Scores Win for Education”](#) (2012).
- *Best Lawyers*® 2011 Insurance Law “Lawyer of the Year” in Seattle
- Washington State PTA Exceptional Service To Children and Youth Award (2015)
- Washington Association of Educators of the Talented and Gifted Distinguished Advocate Award (2015)
- Washington Association of School Administrators “Golden Gavel” Award for outstanding contribution to public education (2010)

- Martindale-Hubbell AV rating, Phi Beta Kappa, Phi Delta Phi

### **Some Professional Activities**

- Washington State Bar Association (WSBA):  
Board of Governors, state-wide elected  
DEI seat
- Washington Defense Trial Lawyers (WDTL):  
Board of Trustees
- King County Bar Association (KCBA) Appellate  
Section: Chair
- Washington Counsel of School Attorneys (COSA):  
Past-President
- Federal Bar Association (FBA), Washington State  
Chapter: President
- Washington State Association of Municipal Attorneys  
member (WSAMA): member
- Risk and Insurance Management Society member  
(RIMS): member
- American Bar Association (ABA): Litigation Section  
& Insurance Coverage Litigation Committees  
member
- King County Bar Association (KCBA): Judicial  
Screening Committee member (2003-2009)
- King County Prosecutor's Office:  
Special Deputy Prosecutor,  
Felony Drug Task Force member (1990-1991)

### **Some Community & Other Activities**

- NAACP [National Association for the Advancement  
of Colored People]: Executive Board member for  
Alaska/Oregon/Washington regional conference;  
Legal Redress Chair for Alaska/Oregon/Washington  
regional conference; elected delegate to the 2021  
National NAACP Convention
- Bainbridge Island School District: Disability  
Awareness Program classroom presenter/workshop  
leader (Wilkes & Blakely elementary schools)

- Washington Motorcycle Road Racing Association (WMRRA): [600cc Racer](#) (2009 – February 11, 2014)
- Mad Hatter Motorcycle Racing Team: 600cc Racer (2011 – February 11, 2014)
- Cascade Bicycle Club (2021 onward): [Seattle To Portland STP](#) (2023); [Ride the Hurricane](#) (2023); [Mount Baker Hill Climb / Thank You From Tom](#) (2022); [From Paralympic Racing To Recreational Riding](#) (2021); [Conquering Disability and Chilly Hilly](#) (2021)
- Washington State Bowhunters: member (2002 – February 11, 2014)
- Rocky Mountain Elk Foundation: Life Member (2001-death)
- Bainbridge Island Football Club [*called "Soccer" in the U.S.*]: Board Member & Secretary (2009-2013)
- Washington State Hillary Clinton delegate: Democratic National Convention, Denver, Colorado (2008)
- Bainbridge Island Planning Commission: Commissioner (1994-1997)
- United Way of King County: Literacy and Employment Funding Review Panel member (1993-1996)
- Bainbridge Island Comprehensive Plan Advisory Committee: member (1992-1994)
- Bainbridge Island Transportation Planning Committee: Chair (1991-1992)
- Notre Dame Alumni Club of Western Washington: Secretary & Newsletter Editor (1987-1994)

## In the News

(Some examples – not a complete list):

- KING 5 News (Seattle): [“Leveling the playing field: Lawsuit could change how Washington funds education”](#) (2022); [“Lawyer for McCleary Family on Decision”](#) (2018); [“McCleary Attorney: It’s About Time”](#) (2015); [“Paralyzed Lawyer Still Standing For Washington Children”](#) (2014); [Lawyer for McCleary family on decision in education funding](#) (2014); [“Inside Politics: McCleary v. the State of Washington”](#) (2013); [“Jean Enersen’s Northwest Newsmakers on King 5”](#) (2013); [“Update on Terrorism Insurance After 9/11”](#) (2002); [“Terrorism Insurance After 9/11”](#) (2001).
- *Seattle Times*: [“No clear answers as WA Supreme Court hears case on school construction”](#) (2023); [“Abandoning WA students to learn in cold, leaky schools is disgraceful”](#) (2023)
- TVW: [Wahkiakum School District v. State Supreme Court](#) Argument (2023);
- NPR / KUOW: [Do school levies put an unfair burden on rural districts?](#) (2022)
- *The Spokane Spokesman-Review*: [The next McCleary? Tiny district sues state](#) (2023)
- *Longview Daily News*: [Wahkiakum schools’ lawsuit seeking money for aging buildings presses on](#) (2022)
- *Wahkiakum County Eagle*: [School facilities suit headed to state supreme court](#) (2023); [State Supreme Court to hear school board case in March](#) (2022) ; [Supreme court will hear Wahkiakum suit](#) (2022)
- *Salish Current*: [Bond system, wealth inequity are targets of school-funding suit](#) (2023)
- *Lewiston Idaho Tribune*: [Abandoning Washington students is disgraceful](#) (2023)
- *Walla-Walla Union-Bulletin*: [Abandoning WA students to learn in cold, leaky schools is disgraceful](#) (2023)

- *The Lewis County Chronicle*: [The Next McCleary? Tiny District With Decaying School Buildings Sues Washington State](#) (2023)
- *The Clark County Columbian*: [Equitable School Funding Again Builds Concern](#) (2022); [No clear answers as Washington Supreme Court hears case on school construction](#) (2023)
- *Yakima Herald*: [No Clear Answers As Washington Supreme Court Hears Case](#) (2023)
- *Spokane Journal of Business*: [Cyberliability Risks](#) (2022)
- University of Washington College of Education: [Guest Lecture by Thomas Ahearne, Lead Counsel for the McCleary case](#) (2019)
- PBS Northwest Now: [McCleary Funding](#) (2017)
- KREM 2 News (Spokane) – [“Extended Interview with McCleary Family Lawyer”](#) (2017)
- *The Boston Globe*: [“In Northwest, a question of tax cuts or education”](#) (2015)
- Publicola at Seattle Met - [“Best of Fizz 2014”](#) (2014)
- TVW: McCleary v. State Supreme Court arguments: [2017 Supreme Court hearing](#); [2016 Supreme Court hearing](#); [2014 Supreme Court hearing](#); [2011 Supreme Court hearing](#) ;
- TVW: [Paramount Duty Coalition Conference](#) (2011)
- *Washington State Bar News* - [“Briefly About: Tom Ahearne”](#) (2011)
- *Seattle Magazine* – [“2010 Most Influential Lawyer of the Year”](#)
- TVW: [Washington State Joint Task Force on Basic Education Finance](#) (2007)

## Speaking Engagements

*[Noted separately in each topic section below]*

## Some Legal Alerts

U.S. Supreme Court Eliminates Exhaustion Of Administrative Remedies Requirement For ADA Damage Suits Against School Districts 3.22.23

Maximizing Recovery From Insurance For Your COVID-19 Losses, 3.18.20

January 17 Public Records Act Injunction Against Hundreds of School Districts, Hospital Districts, Cities, Etc. *Foster Garvey Newsroom*, 1.21.20

Public Records Act Complaint Filed Against All Washington School Districts, 1.10.20

## Experience

### Some Constitutional Examples

- *McCleary v. State* (action to enforce State Constitution's public education clause), 173 Wn.2d 477, ensuing 2012-2018 enforcement proceedings posted on the Supreme Court's website at [McCleary Orders & briefing](#) (King County Superior Court & Washington Supreme Court)
- *Washington State Grange v. Washington State Republican Party, et al.*, (representing Washington State Grange in the ultimately successful defense of its Top-Two Primary Initiative Measure against First Amendment facial challenges by the Democrat, Republican, & Libertarian parties), 552 U.S. 442, reversing 460 F.3d 1108 & 377 F.Supp.2d 907 (U.S. Supreme Court, 9<sup>th</sup>Circuit, & W.D.Wash.)
- *Washington State Democratic Party v. Washington State Grange*, (representing defendant Grange in successfully obtaining dismissal of political parties' as applied challenges to the constitutionality of the Grange's Top-Two Primary Initiative Measure), 676 F.3d 784, cert. denied 133 S.Ct. 110 (U.S. Supreme Court, 9<sup>th</sup> Circuit & W.D.Wash.)

- *Senator Brown Lieutenant v. Governor Owen*, (original jurisdiction Supreme Court mandamus action to enforce State constitution's majority-vote provision), 165 Wn.2d 706 (Washington Supreme Court)
- *Pierce County v. State II*, (class refunds & constitutional contracts clause litigation), 159 Wn.2d 16 (Washington Supreme Court & King County Superior Court)
- *Brown v. State*, (action to enforce State Constitution & portions of Initiative 732), 155 Wn.2d 254 (Washington Supreme Court & King County Superior Court)
- *McGowan, et al. v. State*, (action to enforce portions of Initiative 732), 148 2d 278 (Washington Supreme Court & Thurston County Superior Court)
- *Washington Association of Neighborhood Stores v. State*, (representing Initiative sponsor defending constitutional challenge to Initiative 773), 149 Wn.2d 359 (Washington Supreme Court & Thurston County Superior Court)
- *City of Burien, et al. v. Kiga, et al.*, (representing plaintiffs in constitutional challenge invalidating Initiative 722) 144 Wn.2d 819 (Washington Supreme Court & Thurston, King, Kitsap, Spokane, & Skagit County Superior Courts)
- *Governor Locke, et al. v. Reed, et al.*, Wash.S.Ct case #75392-0 (representing Governor in Supreme Court original jurisdiction action concerning referendum measures and veto power) (Washington Supreme Court)
- *Pierce County, et al. v. State I*, (representing plaintiffs in constitutional challenge to Initiative 776), 150 Wn.2d 422 (Washington Supreme Court & King County Superior Court)



- *Amalgamated Transit Union, et al. v. State*, (representing plaintiffs in constitutional challenge invalidating Initiative 695), 142 Wn.2d 183 (Washington Supreme Court & King, Thurston, & Yakima County Superior Courts)
- *City of Seattle, et al. v. "Save Our Schools" Initiative Committee, et.* (representing Seattle in defense of pre-election challenge to City Initiative 34), 779 P.2d 726 (Washington Supreme Court & King County Superior Court)
- *Satomi Owners Association v. Satomi LLC*, (action to enforce arbitration clause under U.S. Constitution's supremacy clause), 167 Wn.2d 781 (Washington Supreme Court, Court of Appeals, & King County Superior Court)
- *Bonjorni v. City of Auburn*, (defending Auburn against constitutional & statutory challenges to its municipal court system), 93 App. 1002, 1998 WL 781152 (Washington Supreme Court, Court of Appeals, & King County Superior Court)
- *Concerned Citizens, et al. v. AHS Joint Operating Board, et al.*, (defending municipal Joint Operating Agency against constitutional, statutory, & common law challenges to its operations) 78 Wn.App. 333, 127 Wn.2d 1024 (Washington Supreme Court, Court of Appeals, & Skagit County Superior Court)
- *Kendall, et al. v. Public Hospital District No 6*, (defending hospital district against statutory & constitutional challenges to the legality of its operations), 118 2d 1 (Washington Supreme Court & Grant County Superior Court)

- Frequent speaker at legal education seminars / association conferences on state & federal constitutional issues including civil rights, education, and equal protection clauses, first amendment protections, and initiative powers. E.g., for National Education Finance national conference, Council Of School Attorneys (COSA), Education Law Center (ELC) national workshops, Federalist Society National Conference, Washington Full Funding Coalition, University of Washington, Washington State Association of Municipal Attorneys (WSAMA), Washington Association of School Administrators (WASA), Washington Association of School Business Officials (WASBO), Washington State School Directors Association (WSSDA), National Education Law Center (ELC), Washington Public Ports Association (WPPA), Association of Washington Housing Authorities (AWHA), Rural Education Coalition (REC), Seattle University; National Association for the Advancement of Colored People (NAACP), Northwest Legal Foundation, and Group Health Foundation.

#### **Some Statutory Rights Examples**

- *Jane Doe v. City of Lake Stevens*, (securing Public Records Act TRO, preliminary injunction, & permanent injunction against government agency's publicly releasing photographs of crime victim) (Snohomish County Superior Court)
- *Jane Does v. King County*, (Public Records Act TRO & injunction proceedings to block government agency's publicly releasing full video of Seattle Pacific University shooting victim), 192 Wn.App. 10 (King County Superior Court & Washington Court of Appeals)

- *Jane Doe v. City of Everett, et al.*, (Public Records Act TRO & injunction proceedings to block government agency's publicly releasing cell phone date of Marysville Pilchuck High School shooting witness) (Snohomish County Superior Court & Washington Court of Appeals)
- *Bainbridge Ratepayers Alliance v. City of Bainbridge Island*, (defending validity of city's municipal bonds), 158 Wn.App. 1051, 2010 WL 4962942 (Kitsap County Superior Court & Washington Court of Appeals)
- *Alaska Protein Recovery v. Puretek Corp.* (successfully enforcing arbitration rights under the Federal Arbitration Act), 2014 WL 2011235 (W.D. Wash.)
- *Tacoma Narrows Constructors v. Nippon Steel-Kawada Bridge*, (enforceability of arbitration clause under international treaty), 138 Wn.App. 203, 163 Wn.2d 1011 (Washington Supreme Court, Court of Appeals, & Thurston County Superior Court)
- *1000 Virginia Partnership v. Vertec*, (interpretation & application of construction claim statute), 158 Wn.2d 566 (King County Superior Court & Washington Supreme Court)
- *Ballard Square Condominium Owners v. Dynasty Construction*, (interpretation & application of corporate dissolution statutes), 158 Wn.2d 603 (King County Superior Court & Washington Supreme Court)
- *Wishart, et al. v. Clallam County Housing Authority, et al.*, (defending housing authority against statutory challenge to public housing construction) (Clallam County Superior Court & Washington Court of Appeals)

- *Pierce County Housing Authority v. Washington Utilities and Transportation Commission, et al.*, (representing housing authority in overturning Washington Utility & Transportation Commission's statutory interpretation) 86 Wn.App. 138, 131 Wn.2d 1012 (Pierce County Superior Court, Washington Court of Appeals, & Washington Supreme Court)
- *Wright, et al. v. King County, et al.*, (defeating TRO claim against County's land use decision), 77 Wn.App. 1074 (King County Superior Court & Washington Court of Appeals)
- Frequent speaker at legal education seminars / association conferences on statutory rights and obligations, including those under the Public Disclosure Act, Public Records Act & Freedom Of Information Act, Unfunded Mandate statute, Public Bidding & Public Works statutes, and ballot title & initiative certification regulations. E.g., for Law Seminars International, Lorman Education Services, The Seminar Group, Sterling Educational Services, Council Of School Attorneys (COSA), Washington State Association of Municipal Attorneys (WSAMA), Washington Association of School Administrators (WASA), Washington State School Directors Association (WSSDA), Seattle University Law School, and National Association for the Advancement of Colored People (NAACP).

#### **Some Election Law Examples**

- *In re Special Election on Moses Lake School District No.161 Proposition 1*, (representing School District in successful defense of voter approved bond measure that passed by 3 votes), 2 Wn.App.2d 689 (Grant County Superior Court & Washington Court of Appeals)
- *Borders, et al. v. King County, et al.* (representing defendant Secretary of State in Republicans' trial to overturn the contested 2004 Governor's election that was decided by 133 votes out of over 2.8 million cast) (Chelan County Superior Court)

- *Republican Party v. King County, et al.*, (representing defendant Secretary of State in Republicans' emergency injunction action concerning hand recounts in the contested 2004 Governor's election), 153 Wn.2d 220 (Pierce County Superior Court & Washington Supreme Court)
- *McDonald et al. v. Reed, et al.*, (representing defendant Secretary of State in Democrats' expedited Supreme Court suit over hand recounts in the contested 2004 Governor's election), 153 2d 201 (Washington Supreme Court)
- *Republican Party v. King County, et al.*, (representing defendant Secretary of State in Republicans' emergency weekend TRO action concerning machine recounts in the contested 2004 Governor's election) (W.D.Wash.)
- *In re Coday*, (representing defendant Secretary of State in original jurisdiction Supreme Court action relating to the 2004 Governor's election contest petitions), 156 Wn.2d 485, denied, 127 S.Ct. 444 (U.S. Supreme Court & Washington Supreme Court).
- Frequent speaker at legal education seminars / association conferences on election and voting laws including state and federal Voting Rights Acts, Campaign and Public Disclosure Commission compliance, election contests, and vote certification. E.g., for Law Seminars International, Lorman Education Services, Northwest Legal Foundation, Seattle University Law School, Council Of School Attorneys (COSA), Washington State Association of Municipal Attorneys (WSAMA), Washington Association of School Administrators (WASA), and National Association for the Advancement of Colored People (NAACP).

### Some Insurance Coverage Examples

- *No Boundaries v. Pacific Indemnity Co. [Chubb]* (defeating insurance company's interpretation of its policy's code upgrade coverage), 160 Wn.App. 951 (King County Superior Court & Washington Court of Appeals)
- *Commonwealth Insurance Company v. Grays Harbor County*, (defeating insurance company's interpretation of its policy's code upgrade and earthquake coverage for historic building), 120 Wn.App. 232 (Pacific County Superior Court & Washington Court of Appeals)
- *Pinnacle Realty v. General Security Insurance Company*, (defeating insurance company's interpretation of its policy's coverage for punitive damages), (St. Louis Circuit Court & Missouri Court of Appeals; King County Superior Court & Washington Court of Appeals)
- *Intracorp Real Estate LLC v. USI, et al.*, (representing policyholder in combined insurance policy reformation / broker malpractice action), (King County Superior Court)
- *American Hardware Insurance Group v. West One Automotive*, (defense against insurance company's interpretation of its policy's coverage for employment discrimination), 167 Ore.App. 244 (Klamath County Circuit Court & Oregon Court of Appeals)
- *Wellbrock v. Assurance Company of America*, (representing insurance claimant in wrongful death coverage action), 90 Wn.App. 234 (King County Superior Court & Washington Court of Appeals)
- *Mercer International v. USF&G*, (defeating insurance company's interpretation of its policy's coverage for fire damage to residential complex), 938 F.Supp. 680, 189 3d 473, 1999 WL 594813 (W.D. Wash. & 9th Cir.)
- *McRory v. Catlin Specialty Ins. Co.*, (contesting coverage denial under Directors & Officers policy), 511 Fed.Appx. 632 (W.D. Wash. & 9th Cir.)

- *Wright v. Safeco Ins. Co.*, (contesting coverage denial under property policy), 124 Wn.App. 263 (King County Superior Court & Washington Court of Appeals)
- *Allstate Ins. Co. v. Forest Lynn Homeowners Association*, (contesting coverage denial for rot damage), 914 F.Supp. 408 (W.D. Wash.)
- Frequent speaker at legal education seminars / association conferences on insurance coverage, litigation, and bad faith claims. E.g., for Washington Defense Trial Lawyers (WDTL), Risk Insurance Management Society (RIMS), American Bar Association Tort Trial & Insurance Practice Section (ABA/TIPS), National Business Institute, Lorman Education Services, Law Seminars International, Washington Public Ports Association (WPPA), Association of Washington Housing Authorities (AWHA), The Seminar Group, Sterling Educational Services, Evergreen Rural Water Association (ERWA), Master Builders Association (MBA), Washington State Association of Municipal Attorneys (WSAMA), and Washington Association of School Administrators (WASA).

### **Some Cybercrime Examples**

- After cyber intrusion / malware attack compromised its customer data, represented & advised international cruise line in its data protection/recovery and compliance with the minefield of notification, victim protection, and credit monitoring requirements mandated by the 54 United States jurisdictions and various European jurisdictions impacted. (We are honoring this cyber victim client's desire to remain nameless.)

- After cyber spearfishing attack defrauded it of \$6.5 million, represented & advised municipal entity in fully recovering its money with combination of focused insurance claim, banking system freeze, federal remission petition, and FBI coordination. (We are honoring this cyber victim client's desire to remain nameless.)
- After cyber intrusion / cyber spoofing attack defrauded buyer and seller in large commercial transaction of the purchase and sale funds, represented & advised defrauded buyer in defense of lawsuit by seller and counterclaim against that seller to recover buyer's corresponding losses. (We are honoring this cyber victim client's desire to remain nameless.)
- After cyber attack regarding non-profit entity's bank account defrauded it of the bulk of that account, represented & advised defrauded non-profit in fully recovering its money through a combination of threatened litigation, banking regulatory claims, and targeted document/evidence gathering. (We are honoring this cyber victim client's desire to remain nameless.)
- Frequent speaker at legal education seminars / association conferences on cybercrime/cyberfraud prevention, protection, response, and remedies. E.g., for Washington Defense Trial Lawyers (WDTL), Council of School Attorneys (COSA), Washington State Association of Municipal Attorneys (WSAMA), Washington Association of School Administrators (WASA), Washington Association of School Business Officials (WASBO), Washington State School Directors Association (WSSDA), Washington Public Ports Association (WPPA), and Association of Washington Housing Authorities (AWHA).