

Thomas F. Ahearne

MEMBER



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SERVICES

Litigation & Dispute Resolution,
with primary focus on

- Appeals
- Insurance Coverage
- Constitutional Law
- Statutory Rights
- Election Law

PRACTICE OVERVIEW

Tom Ahearne has over 30 years of trial court and appellate experience. His practice focuses on two distinct areas: (1) representing policyholders & claimants in insurance coverage disputes, and (2) representing litigants in lawsuits involving constitutional law, statutory rights, and election issues.

Insurance Coverage: Tom's been successfully representing insureds and claimants in a wide array of state and federal court coverage suits since the 1980s. He's a frequent speaker on insurance coverage at legal education seminars and association conferences, and was named Seattle's insurance coverage "Lawyer of the Year" in the *Best Lawyers*[®] 2011 Insurance Law.

Constitutional Law, Statutory Rights, & Elections: Tom's experience over the past three decades includes (a) constitutional compliance suits such as the *McCleary* school funding litigation, (b) election disputes such as the series of state & federal lawsuits over the Rossi/Gregoire Governor's race, (c) ballot title challenges including I-933, I-895, I-892, I-885, I-884, I-864, & I-860, (d) Public Records Act suits arising out of the Marysville Pilchuck High School & Seattle Pacific University shootings, and (e) suits over the validity of statutes & initiatives such as Washington's Top-Two primary system and various Tim Eyman ballot measures.

SOME ILLUSTRATIVE EXAMPLES OF CONSTITUTIONAL, STATUTORY RIGHTS, & ELECTION LAW CASES

- *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)
- *In re Special Election on Moses Lake School District No. 161 Proposition 1*, (representing School District in successful defense of school bond measure that passed by 3 votes), 2 Wn.App.2d 689 (Grant County Superior Court & Washington Court of Appeals)

- *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 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, 9th 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), 676 F.3d 784, cert. denied 133 S.Ct. 110 (U.S. Supreme Court, 9th Circuit, & W.D.Wash.)
- *Jane Doe v. City of Lake Stevens*, (securing TRO, preliminary injunction, & permanent injunction against government agency’s public release of photographs of crime victim) (Snohomish County Superior Court)
- *Jane Does v. King County*, (TRO & injunction proceedings to block government agency’s public release of 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.*, (TRO & injunction proceedings to block government agency’s public release of Marysville Pilchuck High School shooting witness’s cellphone data) (Snohomish County Superior Court & Washington Court of Appeals)
- *Bainbridge Ratepayers Alliance v. City of Bainbridge Island*, (defending validity of municipal bonds), 158 Wn.App. 1051, 2010 WL 4962942 (Kitsap 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 2004 Governor’s election that was decided by 133 votes) (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 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 original jurisdiction Supreme Court action concerning hand recounts in the 2004 Governor’s election), 153 Wn.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 2004 Governor’s election) (W.D. Wash.)
- *In re Coday*, (representing defendant Secretary of State in original jurisdiction Supreme Court action relating to Governor’s election contest petitions), 156 Wn.2d 485, cert. denied, 127 S.Ct. 444 (U.S. Supreme Court & Washington Supreme Court).
- *Brown v. 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 (King County Superior Court & Washington Supreme Court)
- *Brown v. State*, (action to enforce State Constitution & portions of Initiative 732), 155 Wn.2d 254 (King County Superior Court & Washington Supreme Court)
- *McGowan, et al. v. State*, (action to enforce portions of Initiative 732), 148 Wn.2d 278 (Thurston County Superior Court & Washington Supreme Court)
- *Washington Association of Neighborhood Stores v. State*, (representing Initiative sponsor defending constitutional challenge to Initiative 773), 149 Wn.2d 359 (Thurston County Superior Court & Washington Supreme Court)
- *City of Burien, et al. v. Kiga, et al.*, (representing plaintiffs in constitutional challenge invalidating Initiative 722) 144 Wn.2d 819 (Thurston, King, Kitsap, Spokane, & Skagit County Superior Courts and Washington Supreme Court)

- *Governor Locke, et al. v. Reed, et al.*, (representing Governor in Supreme Court original jurisdiction action concerning referendum measures and veto power) (Washington Supreme Court #75392-0)
- *Pierce County, et al. v. State I*, (representing plaintiffs in constitutional challenge to Initiative 776), 150 Wn.2d 422 (King County Superior Court & Washington Supreme Court)
- *Amalgamated Transit Union, et al. v. State*, (representing plaintiffs in constitutional challenge invalidating Initiative 695), 142 Wn.2d 183 (King, Thurston, & Yakima County Superior Courts and Washington Supreme Court)
- *City of Seattle, et al. v. "Save Our Schools" Initiative Committee, et al.*, (representing Seattle in defense of pre-election challenge to City Initiative 34), 779 P.2d 726 (King County Superior Court & Washington Supreme Court)
- *Tacoma Narrows Constructors v. Nippon Steel-Kawada Bridge*, (enforceability of arbitration clause under international treaty), 138 Wn.App. 203, 163 Wn.2d 1011 (Thurston County Superior Court, Court of Appeals, & Washington Supreme Court)
- *Alaska Protein Recovery v. Puretek Corp.*, (successfully enforcing arbitration rights under the Federal Arbitration Act), 2014 WL 2011235 (W.D. Wash.)
- *1000 Virginia Ltd. 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)
- *Satomi Owners Association v. Satomi LLC*, (action to enforce arbitration clause under U.S. Constitution's supremacy clause), 167 Wn.2d 781 (King County Superior Court, Court of Appeals, & 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)
- *Bonjorni v. City of Auburn*, (defending city against constitutional & statutory challenges to its municipal court system), 93 Wn.App. 1002, 1998 WL 781152 (King County Superior Court, Washington Court of Appeals, & Washington Supreme Court)
- *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)
- *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 (Skagit 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)
- *Kendall, et al. v. Public Hospital District No 6*, (defending hospital district against statutory & constitutional challenges to the legality of its operations), 118 Wn.2d 1 (Grant County Superior Court & Washington Supreme Court)

SOME ILLUSTRATIVE EXAMPLES OF INSURANCE COVERAGE CASES

- *No Boundaries Ltd. 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), 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 F.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.)

EXAMPLES OF RECOGNITIONS

- *Washington Super Lawyers* – Super Lawyer selection (2000-present)
- *The Best Lawyers in America*® - Insurance Law (2007-present)
- *Best Lawyers*® 2011 Insurance Law "Lawyer of the Year" in Seattle
- *KING 5 (Seattle) News* - "Paralyzed Lawyer Still Standing For Washington Children" (September 2014)
- *KING 5 (Seattle) News* - "[Lawyer for McCleary Family on Decision](#)" (June 2018)
- *KREM 2 (Spokane) News* - "[Extended Interview with McCleary Family Lawyer](#)" (June 2017)
- *The Boston Globe* – "[In Northwest, a question of tax cuts or education](#)" (November 2015)
- Washington Association of Educators of the Talented and Gifted – Distinguished Advocate Award (2015)
- *KING 5 (Seattle) News* – "[McCleary Attorney: It's About Time](#)" (August 2015)
- *Publicola at Seattle Met* - "[Best of Fizz 2014](#)" (December 2014)
- *KING 5 (Seattle) News* - "Inside Politics: McCleary v. the State of Washington" (September 2013)
- *KING 5 (Seattle) News* - "Jean Enersen's Northwest Newsmakers on King 5" (February 2013)
- *Washington Super Lawyers* - "[Paramount Duty - Thomas Ahearne Wins One For Public Education](#)" (2012)
- *The Super Lawyers Blog* – "[Thomas Ahearne Scores Win for Education](#)" (January 2012)
- *Washington State Bar News* - "[Briefly About: Tom Ahearne](#)" (November 2011)
- *Seattle Magazine* – "[2010 Most Influential Lawyer of the Year](#)" (November 2010)
- Washington Association of School Administrators "Golden Gavel" Award for outstanding contribution to public education (2010)

- *KING 5 (Seattle) News* - "Update on Terrorism Insurance After 9/11" (2002)
- *KING 5 (Seattle) News* - "Terrorism Insurance After 9/11" (2001)
- Martindale-Hubbell AV rating
- Phi Beta Kappa
- Phi Delta Phi

LAW RELATED ACTIVITIES

- Washington Defense Trial Lawyers (WDTL)
- Washington State Association of Municipal Attorneys (WSAMA)
- Risk and Insurance Management Society (RIMS)
- King County Bar Association, Judicial Screening Committee (2003-2009)
- Washington State Bar Association, Litigation Section
- Federal Bar Association
- American Bar Association, Litigation Section & Insurance Coverage Litigation Committee
- King County Prosecutor's Office, Special Deputy Prosecutor, Felony Drug Task Force (1990-1991)

NON-LAW ACTIVITIES

- Washington State Bowhunters, Member (2002-February 11, 2014)
- Washington Motorcycle Road Racing Association (WMRRA), 600cc Racer (2009-February 11, 2014)
- Rocky Mountain Elk Foundation, Life Member (2001-death)
- Bainbridge Island Football Club [*a/k/a "Soccer"*], Board Member & Secretary (2009-2013)
- Washington 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)

EXAMPLES OF LEGAL EDUCATION PRESENTATIONS ON CONSTITUTIONAL, STATUTORY, & ELECTIONS ISSUES

- *"First Amendment: Free Speech in School District Elections"* (Washington State Council of School Attorneys Spring Workshop, 2018)
- *"Public Disclosure Act & Privilege Ethics: Common Interest, Joint Defense, Client Confidences, Attorney-Client Communications, Work Product, and Deliberative Process"* (Law Seminars International, 2018)
- *"School Funding Litigation Remedies"* (National education litigators workshop, New York City, 2017)
- *"Litigating State Constitutional Issues"* (Federalist Society Conference, Reagan Presidential Library, California, 2017)
- *"School Funding Litigation Under State Constitutional Provisions"* (National education litigators workshop, Los Angeles, 2016)
- *"School Funding Causes of Action, Evidence, and Trial Strategies"* (National education litigators workshop, New York City, 2015)
- *"Public Bidding Procedures and Bid Contests"* (Lorman Education Services, 2009)
- *"Election Law in Washington: Initiatives and Referenda"* (Lorman Education Services, 2008)
- *"Washington Public Bidding Procedures & Bid Contest Law"* (Lorman Education Services, 2008)

- “*Constitution & Education Funding Litigation*” (Full Funding Coalition Seminar, Senate Office Building, Olympia, Washington, 2007)
- “*Public Works Construction: New & Dramatic Legal Changes in Washington*” (Lorman Educational Services, 2006)
- “*Election Law in Washington*” (Northwest Legal Foundation, 2005)
- “*Where’s My Vote? Lessons Learned From Washington’s Gubernatorial Election*” (Seattle University Law School symposium, 2005)

EXAMPLES OF LEGAL EDUCATION PRESENTATIONS ON INSURANCE COVERAGE ISSUES

- “*Top Ten Insurance Coverage Traps To Avoid*” (FP Insurance Seminar, 2018)
- “*Details Of Washington Bad Faith Law*” (National Business Institute, 2017)
- “*Washington Insurance Law On Interpreting The Policy Language At Issue In A Bad Faith Case*” (National Business Institute, 2017)
- “*Insurance Coverage Legal Update*” (FP Insurance Seminar, 2017)
- “*Construction Law: What Do You Do To Pursue Insurance Claims?*” (National Business Institute, 2017)
- “*Insurance Bad Faith ‘Set-Up’ in Washington: the Law & the Origin of the Set-Up*” (National Business Institute, 2016)
- “*Insurance Bad Faith ‘Set-Up’ in Washington: Recognize an Unreasonable Third-Party Demand*” (National Business Institute, 2016)
- “*Panel on an Overview of Ethical Rules in Washington as Compared to Oregon, Idaho & Alaska regarding the Insurance Tripartite Relationship*” (Washington Defense Trial Lawyers, Annual Insurance Law Update, 2015)
- “*Insurance Coverage Issues in Public Works Construction, Public Contracts, & Procurement*” (Lorman Education Services, 2013)
- “*Insurance Coverage: Public Ports and Contracting*” (Washington Public Ports Association, 2012)
- “*How to Collect from Someone Else’s Insurance for Just About Anything*” (Association of Washington Housing Authorities Conference, 2012)
- “*Insurance Considerations in the Bidding Process*” (The Seminar Group, 2012 & 2011)
- “*Insurance Coverage and Its Critical Role in Construction Defect Claims*” (Lorman Education Services, 2011 & 2008)
- “*Ethical Considerations in Construction Defect Litigation & Insurance From A to Z*” (National Business Institute, 2010)
- “*Pursuing Insurance Coverage for Construction Defects: Common Pitfalls for Coverage*” (The Seminar Group, 2011, 2010, 2009, & 2008)
- “*Insurance Fair Conduct Act (IFCA)*” (The Seminar Group, 2009)
- “*Insurance Coverage Issues in Public Works Construction*” (Lorman Education Services, 2009 & 2008)
- “*Coverage Disputes & Bad Faith Claims*” (National Business Institute, 2009)
- “*Construction Projects — Insurance Coverages for Construction Defects*” (Lorman Education Services, 2008)
- “*Reducing Project Risks Through Insurance*” (Lorman Education Services, 2008)
- “*Pursuing Insurance Coverage for Construction Defects, Water Intrusion, & Other Calamities*” (The Seminar Group, 2007)
- “*Insurance Coverage & Indemnity Clauses — Ensuring that Someone Else Pays When Things Go Wrong*” (The Seminar Group, 2007)
- “*Myth vs. Reality in the World of Condominiums, Construction Litigation & Insurance Coverage — Traps in the Trenches*” (FP Real Estate and Land Use Development Seminar, 2007)
- “*Construction Defects: Insurance Coverage for Water Intrusion & Other Calamities*” (National Business Institute, 2006)
- “*Insurance Coverage Trends*” (National Business Institute, 2006)

- “*Insurance Law: Third Party Coverage*” (National Business Institute, 2006)
- “*Construction Defects: Water Intrusion Insurance Claims*” (The Seminar Group, 2005)
- “*Water Intrusion & Other Construction Insurance Issues*” (National Business Institute, 2004)
- “*Insurance Coverage Challenges in Washington*” (National Business Institute, 2004)
- “*Water Intrusion and Toxic Mold Claims*” (Sterling Educational Services, 2004)
- “*Insurance Litigation in Washington*” (National Business Institute, 2003)
- “*Solving Water Intrusion & Mold Problems in Washington*” (Lorman Education Services, 2002)
- “*Insurance Protection For Construction Defects, Terrorist Threats, & Other Losses*” (Evergreen Rural Water Association, 2002)
- “*Protections & Limitations Of Home Owner Warranty/Insurance Programs Under Washington Law*” (Master Builders Association Conference, 2002)
- “*Understanding The Insurance Contract & Washington Insurance Coverage Law*” (National Business Institute, 2002)
- “*Construction Defects & Mold Claims: Parties and Insurance Coverage*” (National Business Institute, 2002)
- “*Insurance Law In Washington*” (National Business Institute, 2001)
- “*Getting The Most Insurance Protection For Your Taxpayers*” (Washington municipal attorney conference, 2000)
- “*Recent Collapse Cases & First—Party Property Cases In Washington*” (Washington Defense Trial Lawyers Association seminar, 1998)
- “*Getting The Most Out Of The Insurance The Homeowner Paid For*” (National Business Institute, 1998)
- “*Getting The Most Out Of That Directors And Officers Policy The Company Bought*” (National Business Institute, 1998)
- “*Insurance Coverage For Environmental Pollution Claims: Use Those Old Insurance Policies*” (Risk Insurance Management Society/RIMS conference, 1996)

LEGAL CAREER

- Foster Pepper PLLC, Equity Member (1993-present), Associate (1986-1992)
- U.S. District Court, Southern District of Texas, Houston Division, Law Clerk to Chief Judge John V. Singleton, Jr. (1984-1986)

BAR 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)

EDUCATION

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