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Mark Thacker has extensive experience in the areas of products liability, complex commercial litigation and business disputes, unfair competition, trademark infringement and trade secret litigation, employment, consumer class actions, and civil rights. He is also experienced in insurance coverage analysis and issues. Before joining the firm in 1991, he worked extensively in the oil and gas industry for a major oil company handling complex negotiations and environmental matters in California and Alaska.

He is admitted to practice in California, as well as the United States District Courts for the Northern, Central and Eastern Districts of California and the Ninth Circuit Court of Appeals.

Mark joined the firm's San Jose office after receiving his law degree from Santa Clara University School of Law in 1991, where he graduated magna cum laude, and was Articles Editor for the Santa Clara Law Review.

## Practice Areas

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- Business And Commercial Litigation
- Healthcare
- Product Liability
- Intellectual Property
- Civil Rights

## Education

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- University of Louisiana at Lafayette, B.A.
- Santa Clara University School of Law, 1991 J.D.

## Court Admissions

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- California
- US Court of Appeals for the Ninth Circuit
- USDC: Central District of California
- USDC: Eastern District of California

- USDC: Northern District of California

## Memberships & Associations

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- Santa Clara County Bar Association
- State Bar of California

## Representative Experience

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**Practice Area:** Intellectual Property, Trade Secret Protection and Litigation, Unfair Competition

**Key Issues:** Trade Secret; Trade Dress; Unfair Competition

**Venue:** USDC: Northern District of California

**Client Type:** Defendant Product Manufacturer

Suit for trademark infringement, misappropriation of trade secret and unfair competition arising out of manufacture and sale of ceiling systems.

**Result:**

Matter was settled for minimal amount, to the complete satisfaction of the client.

**Practice Area:** Business And Commercial Litigation

**Key Issues:** Breach of Contract; Retirement Benefits

**Venue:** San Mateo County Superior Court

**Client Type:** Defendant School District

Our client, school district, was sued by its former chief business officer for breach of contract and past and future retirement benefits.

**Result:**

Summary Judgment Motion and mediation/settlement pending.

**Practice Area:** Appellate, Business And Commercial Litigation

**Key Issues:** Conversion; Fraud

**Venue:** USDC: Northern District of California

**Client Type:** Defendant

An international humanitarian foundation asserted claims based on conversion and fraud, claiming that our clients knowingly received millions of dollars that allegedly had been illegally obtained from it by others in an investment fraud scheme, and further, that our clients actively concealed the funds to avoid recovery by Plaintiff.

**Result:**

We obtained a summary judgment on all claims. On appeal, which we also handled, the 9th Circuit affirmed.

**Practice Area:** Appellate, Civil Rights

**Key Issues:** Civil Rights; 28 USC 1983; Injunction; Contempt

**Venue:** USDC: Northern District of California

**Client Type:** Municipality; Police Officers

We represented a city and individual police officers in two separate actions in defense of the plaintiffs' claims for the alleged violation of their civil rights. Plaintiffs alleged that they were prevented from exercising their freedom

of speech rights because they were denied access to certain areas of public property, and on one occasion when they were arrested. Plaintiffs claimed entitlement to substantial civil penalties under applicable state and federal statutes (Civil Code sec. 52.1 and 28 USC 1983).

**Result:**

We were brought into the case after an injunction had already been entered and after plaintiffs had filed a motion for summary judgment. We substantially defeated the plaintiffs' motion for summary judgment on several claims, and obtained a favorable adjudication of our clients' claims for qualified immunity on most claims. Thereafter, we defeated the plaintiffs' contempt motion (based on violation of the preliminary injunction) after a three-day evidentiary hearing. Additionally, we eliminated all of the plaintiffs' claims for substantial civil penalties (in excess of \$500,000) by obtaining a favorable ruling from the district court interpreting the applicable state statute (Civil Code sec. 52.1) to preclude all such penalties. We also prevailed in defeating the plaintiffs' petition to the 9th Circuit for permission to appeal the ruling.

**Practice Area:** Class Action/Complex Litigation, Product Liability

**Key Issues:** Product Liability Actions; Medical Device Manufacturer

**Venue:** Coordinated in San Diego Superior Court; Original venues for trial

**Client Type:** Medical Device Manufacturer

More than forty individual product liability actions against numerous manufactures were coordinated in San Diego Superior Court. Each Plaintiff alleged that she/he developed a life threatening allergy as a result of exposure to latex gloves, used extensively in medical procedures.

**Result:**

Represented a major manufacturer of medical devices. We were responsible for managing, supervising and litigating more than 40 individual product liability actions in coordinated litigation throughout California. Specific responsibilities included: developing and implementing all aspects of defense strategies through trial; coordinating defense strategies with nationwide litigation; acting as lead defense counsel on behalf of all defendants in selected cases (appointed by Defense Steering Committee). All actions against our client eventually settled after we obtained a defense verdict (11-1) in one action after an eight-week trial in Alameda Superior Court.

**Practice Area:** Business And Commercial Litigation

**Key Issues:** Cybersquatting; Trademark; Trade Libel

**Venue:** San Mateo Superior Court

**Client Type:** Plaintiff; Trade Name Owners

Defendants were using domain names identical to our clients' trade names for the improper purpose of diverting Internet consumers to defendants' web site where false and disparaging statements are made about our clients.

**Result:**

We obtained a temporary restraining order and preliminary injunction prohibiting the use of the domain names. Ultimately, the matter settled, which included transfer of the domain names to our client.

**Practice Area:** Class Action/Complex Litigation, Product Liability

**Key Issues:** Should class be certified? Was product defective? Did putative class sustain damage?

**Venue:** San Joaquin County Superior Court and USDC: Eastern District of California

**Client Type:** Manufacturer of Aluminum Windows.

Plaintiffs sued, individually and on behalf of a class, in both courts, claiming that the entire product line of windows (more than one million) manufactured by client was defective in that the windows were prone to leaking, that there was a breach of express and implied warranties, and that the windows caused or would cause damage to all homes in which the windows were installed.

**Result:**

Though both courts certified the classes in each case, the cases settled favorably for the client as evidenced by comparison to other class action settlements involving similar aluminum window products.