



Business And Commercial Litigation

RMKB's extensive business/commercial litigation expertise reaches into almost every aspect of the business world: From pre-litigation advice in order to assist in business decision-making, to the full spectrum of litigation proceedings (jury trials, court trials, binding arbitrations, mediations, alternative dispute resolution, writs and appeals). Whether in state or federal trial and appellate courts, our litigators bring a substantial depth of expertise and dedicated, results-oriented service to our commercial clients. Such clients include individuals, partnerships, small and large businesses, start-ups and Fortune 500 companies.

Our commercial litigation practice includes: Commercial contract disputes; UCC matters; unfair business practices and antitrust; toxic torts; Proposition 65; environmental contamination; intellectual property (copyrights, trademarks, trade secrets and patents); product liability; labor and employment law disputes (including wrongful termination, discrimination and harassment); partnership and shareholder disputes; false advertising; securities and brokerage litigation; and disputes pertaining to real estate, licensing agreements and service transactions.

Contract/UCC

The firm has handled a variety of disputes involving breach of contract claims for specific performance. We have acted as counsel in disputes among owners of closely held corporations, joint ventures and partnerships. We are experienced in litigation of long term-commercial leases, equipment leases and other such agreements where remedies are both contractual and equitable. Among others, we have taken contract cases to trial on unusual issues involving requirements contracts, minimum payment guarantees and the interpretation of force majeure clauses.

Corporate Governance/Partnership Disputes

We have negotiated settlement agreements and corporate integrity agreements with Federal and State agencies. Further, we have successfully designed and implemented corporate integrity and compliance plans, nationally and internationally. Our attorneys have trained employees on corporate governance issues, both through in-person seminars and video taped presentations. We have been involved in major corporate fraud litigation, including health care related investigations. Our attorneys have defended corporate directors and officers in civil and criminal depositions and civil investigation demands. Within 48 hours, we have responded to subpoenas

requesting a substantial number of documents in national cases of white collar crime.

Our experience in small corporate and partnership disputes includes representation of majority and minority shareholders and partners in claims involving securities fraud, unfair competition, unfair business practices, infringement of intellectual property, employment disputes, and white collar crime.

Director/Officer Liability (including Non-Profits)

We have defended corporate directors & officers in cases of securities fraud, unfair business practices, unfair competition, landmark intellectual property rights, shareholder claims, employment discrimination, and white collar crime. One of our business litigation group's partners, for example, tried and defended the first pregnancy discrimination case to go to verdict in California against a major hospital's board of directors and CEO. Another of our lawyers was counsel to a corporate officer & general counsel in the largest securities fraud case in California history.

Our experience in director/officer issues also includes coverage and claims counsel work for major D&O insurance companies. Several of these engagements have involved complex D&O liability claims involving leading Silicon Valley companies.

As to non-profit organizations and their director/officers, we have represented and advised various types of charitable, religious, educational, and government entities. For example, in our San Jose office, we have defended board members of the largest non-profit developer of community housing in Santa Clara County. One of our attorneys in Los Angeles routinely handles D&O claims against church and school boards under engagement by a national insurer of such non-profits. Another Los Angeles office attorney is general counsel to the NorCal La Crosse Foundation, Inc. In our Redwood City office, we have a senior partner who is very active in several local non-profit associations as a founding director of both the Hong Kong Association of Northern California and Hong Kong Silicon Valley.Com, director of a local private high school, and Chairman of the Board of a local Kai Ming Head Start. Another of our Redwood City attorneys does defense and coverage work for Non-Profit Insurance Alliance of California.

Fidelity & Surety

The area of fidelity and surety bond litigation requires a high level of skill, experience, and discretion. Although often discussed in the same context as insurance, litigation arising from bonds requires unique knowledge and experience in a different area of the law. Our partners heading up this department manage teams who have this unique knowledge and are dedicated to this specialized and demanding category of work.

Management of fidelity and surety bond litigation creates special problems in California because the matters can involve extra-contractual and bad faith allegations leading to exposures far in excess of the bond amount. When necessary, we combine the unique knowledge and experience of this group with lawyers from our bad faith/extra-contractual practice group to minimize the company's exposure.

On the surety side, we have experience on subdivision performance, payment and maintenance

bonds, Miller Act payment and performance bonds, financial guarantee bonds, notary and oil exploration bonds, and all aspects of construction bonds. In recent litigation, a hospital sued the principal on a bond for allegedly failing to provide and properly install the mechanical parts of a cogeneration plant designed to provide electricity to the hospital and generate excess electricity for sale. The suit claimed that the bonding company had acted in bad faith. We successfully defended the surety company against these allegations and settled the case under the normal bond provisions.

Our fidelity bond experience includes investigation and litigation arising from inventory theft from high tech companies and thefts from financial institutions through sophisticated fraudulent loan schemes involving loan officers, appraisers, and borrowers with ties to organized crime. In one action we represented the issuer of a fidelity bond who refused to pay a \$6.5 Million claim alleging an elaborate scheme involving fraudulent equipment lease transactions. This matter involved both actions on the bond and allegations of bad faith. The case was originally filed in state superior court, but we were able to negotiate a more favorable settlement following removal to federal court.

Bond litigation involves the potential for subrogation against the principal or other wrongdoers once payment is made. We have handled numerous subrogation and collection actions following payment under bonds including actions against banks and other financial institutions for honoring checks and other negotiable instruments bearing forged signatures, and against principals and subcontractors arising out of payment under construction surety bonds.

Unfair Business Practices

Our attorneys have handled a wide variety of unfair business practice claims (17200 matters) as well as *Kasky*-related issues (17500) since California's threshold case in this area was handed down in 1998-- *Stop Youth Addiction, Inc. v. Lucky Stores*. The California Supreme Court has recognized that virtually any violation of law for regulation could form the basis for a 17200 claims and nearly all actions of a regulatory nature have included claims under 17200.

In particular, the firm has handled 17200 matters on issues including:

- The illegal burning of hazardous waste
- False advertising
- Improper discharge of pesticides
- Failure to remediate contaminated soil and groundwater
- Bad faith processing of insurance claims
- Price fixing
- Violations of California weight and measure requirements
- Violation of nursing home standards
- Improper labeling of consumer products

White Collar Crime

The defense of individuals charged with wire or mail fraud, embezzlement, and other white-collar or corporate criminal activity is handled with skill and sensitivity by RMKB attorneys.

We have represented a large number of public officials and law-enforcement officers accused of wrongdoing. Often these cases are a magnet for publicity and one of our functions is to contain the publicity and work with the prosecutors toward a speedy resolution. When possible, we seek to determine whether the criminal charges arose from a misunderstanding or misrepresentation; where financial dealings are involved, we facilitate a prompt restitution of funds so that financial benefit is not an issue.

Over the years, we have defended many police officers and police associations against charges of excessive force, misconduct, and wrongful death. We have also provided the successful defense in the case of a San Francisco police officer charged by the FBI with domestic espionage for the Anti-Defamation League. An individual or corporation accused of a white collar crime needs legal counsel whose approach is not only geared to a successful defense, but is concerned with protecting public or industry image. At Ropers, Majeski, the white collar crime practice group is headed by and staffed with former prosecutors whose knowledge of criminal law in the business area is unsurpassed.

Our white collar representation includes the defense of a Fortune 500 company, health care corporations, serious senior management personnel, physicians, police officers and public officers. The cases include homicide charges, hazardous waste violations, professional licensing problems, and theft of trade secret or confidential information.

Ropers Majeski attorneys are skilled in containing publicity and, where necessary, working with prosecutors for a speedy and sensible resolution of the case. Our investigative techniques are focused toward uncovering key issues that can quickly turn a case in a client's favor. All in all, the Ropers, Majeski white collar crime team has just what a criminal defense needs - experience in protecting a client's image while working towards a prompt and favorable resolution of the matter.

Representative Experience

Attorneys: Andrew L. Margulis

Key Issues: Directors and Officers; Professional Liability; Fidelity

Venue: Arbitration--JAMS

Client Type: Defendant Insurance Provider

Description: Represented an insurer in a coverage matter under a blended policy providing directors/officers, professional liability and fidelity coverage issued to a leading insurance company. The insured sought coverage in connection with claims arising out of one of the largest insurance/bond frauds perpetrated by an officer of the insured's subsidiary. Holders of the bonds with values in excess of \$120 million sought payment on the bonds. Coverage was denied and the parties submitted the matter to binding arbitration.

Result: The matter was ultimately resolved after approximately five years of litigation on terms favorable to the insurer.

Attorneys: Arnold E. Sklar

Key Issues: Trademark Infringement

Venue: Federal Court, Central District, Santa Ana

Client Type: Defendant Food Manufacturer

Description: The plaintiff, an international manufacturer of potato chips, had manufactured and nationally distributed a product using a specific term in 1982. The defendant, a competing potato chips manufacturer, had used the same term on its own brand of potato chips since 1986. Neither party had obtained federal trademark registrations for the term. The plaintiff filed suit for trademark infringement and false designation of origin. Prior to trial the plaintiff voluntarily dismissed all claims for money damages to avoid a jury trial. Upon receiving survey evidence during a two and one half week bench trial, the court rendered a verdict in favor of the defense determining that the term was generic and thus not protectable.

Result: Settlement negotiations resulted in no agreement to stop use of the term, or payment of monies to the plaintiff. Prior to trial, the plaintiff dismissed all claims for money damages, to avoid jury trial. Two and half week Court trial. Court verdict in defense favor, term deemed generic, free for use by all producers of these types of potato chips. Favorable decision published *Classic Foods Int'l Corp. v. Kettle Foods, Inc.*, 468 F.Supp.2d 1181 (C.D. Cal. 2007).

Attorneys: François G. Laugier

Key Issues: Settlement of Commercial Dispute

Client Type: Spinal Implants Manufacturer

Description: Represented a French manufacturer of spinal implants in a commercial dispute with a US distributor. Coordinated development of the case, prepared international discovery and drafted motions with company executives and local co-counsel.

Result: Obtained a favorable settlement for our client.

Attorneys: Geoffrey W. Heineman, Jung H. Park

Key Issues: Coverage

Venue: New Castle County, Delaware Superior Court

Client Type: Defendant Insurance Company

Description: Represented an insurance carrier in a \$600 million lawsuit involving a complex coverage action involving the plaintiff, a telecommunication provider, and eight insurance carrier defendants. The plaintiff had sought insurance coverage from the insurers on five different insurance towers for multiple shareholder lawsuits. The multiple lawsuits could be divided into three categories. The first category of lawsuits arose out of the plaintiff's efforts to transform the company from a low growth long distance carrier into a rapidly growing telecommunications giant capable of delivering "bundled services." The allegations were based on assertions that the plaintiff and its individual officers and directors artificially inflated stock price by painting an unrealistically positive portrait of the company's financial condition in an effort to ensure the success of the spin-off of its wireless operation. The second category of lawsuits arose out of the IPO of the telecommunication providers tracking stock. These lawsuits alleged that the plaintiff and certain of its directors and officer misrepresented and/or omitted material facts in connection with the IPO in violation of the federal securities acts. The third category of lawsuits concerned allegations that the plaintiff and certain directors and officers improperly acquired majority ownership control over a now defunct internet service provider and thereafter, misappropriated the provider's technology to the benefit of the plaintiff and to the detriment of the provider, eventually driving the provider into bankruptcy.

Result: Approximately a month before jury selection was to begin, our client and the one other remaining insurer entered into extensive settlement negotiations which resulted in a resolution our client viewed as a very favorable result.

Attorneys: Geoffrey W. Heineman, Eric C. Weissman
Key Issues: Breach of Fiduciary Duty
Venue: Kings County, New York Supreme Court
Client Type: Defendant Property Management Company

Description: In April 2007, a shareholder and tenant of a residential cooperative apartment in Brooklyn, New York, filed suit against the Board of Directors (the "Board") of the cooperative management association. The plaintiff alleged that the defendants breached their fiduciary duties to her and to the cooperative by engaging in self-dealing and failing to treat all shareholders in a uniform manner. Specifically, the plaintiff alleged that the defendants' breaches of fiduciary duty occurred in the following ways: (i) the president of the management association receives compensation for his services as a board member; (ii) the garage spaces in the building are not assigned pursuant to proper "rules"; and (iii) the defendants engaged in "improper" billing practices. The plaintiff sought monetary damages and injunctive relief.

Result: After more than two years of protracted and contentious litigation, Justice David Schmidt granted the defendants' motion for summary judgment finding that the plaintiff was unable to support her allegations with any evidence. In fact, during oral argument on the motion for summary judgment, Justice Schmidt allowed the plaintiff's counsel to supplement its written filings by presenting evidence to support each instance of an alleged breach of fiduciary duty. Counsel, however, was unable to convince the court that any breach had occurred. Accordingly, Justice Schmidt found that the plaintiff was unable to prove her allegations as a matter of law and granted judgment for our clients.

Attorneys:
Key Issues: Banking, Bankruptcy, Consumer Credit
Venue: USDC: Eastern District of California
Client Type: Defendant Bank

Description: The plaintiff was a collection agency, which contracted with a credit card issuer (our client) to pursue accountholders who had abused the bankruptcy process. The plaintiff sought over \$500,000 in unpaid fees.

Result: Our firm obtained summary judgment dismissing the complaint.

Attorneys:
Key Issues: Class Action
Venue: Alameda County Superior Court, Northern Division Unlimited Jurisdiction
Client Type: Defendant Bank

Description: Our client had retained a telemarketing firm, which represented that it had received legal advice that it could disseminate pre-recorded messages by telephone. A class action was filed on behalf of all recipients of such messages, which were alleged to be actionable under both state and federal law.

Result: After obtaining disqualification of plaintiff's counsel, our firm was able to negotiate a reasonable settlement.

Attorneys:

Key Issues: Appeal; Arson

Venue: Sacramento County Superior Court

Client Type: Defendant Insurance Provider

Description: The firm was retained to appeal a \$3.2 million judgment against a homeowner's insurer in a bad faith case. The insured alleged that the insurer had instigated a criminal prosecution for arson against him in relation to a fire that destroyed his home.

Result: The court of appeal completely reversed the judgment.

Attorneys: Jennifer E. Acheson, Michael J. Brady

Key Issues: Breach of Contract; Bad Faith Claims

Venue: Colusa County Superior Court

Client Type: Defendant Insurer

Description: Represented an insurer against claims for breach of contract and bad faith claims handling. The plaintiff, a regional medical center, hired a construction company insured by our client to install a new roof on the plaintiff's hospital. A subsequent rainstorm caused damage to the property after the construction company failed to take precautions to cover a section of the roof. Our client denied coverage based on policy exclusions based on faulty, inadequate and defective workmanship.

Result: Damages claimed by the plaintiff were in excess of \$1.3 million. The dispute settled before trial for less than half of the damages claimed, a favorable result for our client.

Attorneys: Jennifer E. Acheson, Michael J. Brady

Key Issues: Breach of Contract; Fraud; Unfair Business Practices

Venue: San Francisco County Superior Court

Client Type: Plaintiff

Description: Represented a plaintiff in an action for breach of contract, fraud, and unfair business practices against the owner of a consignment piano shop. The defendant sold the plaintiff's piano without permission and did not turn over the proceeds from the sale.

Result: A default judgment was entered against the defendant for money damages and the return of the piano to our client. Following the defendant's declaration of bankruptcy, the matter resulted in the criminal prosecution of the defendants by The San Francisco District Attorney for felony counts of grand theft, embezzlement, and restitution.

Attorneys: John A. Koeppel

Key Issues: Product Liability; Breach of Contract

Venue: Federal Court in San Jose

Client Type: Defendant Corporation

Description: Defended a corporation in a commercial litigation action involving a combined breach of contract and product liability claim that was tried in a jury trial. The plaintiff, a multinational computer technology and IT consulting corporation, claimed that the defendant provided defective fans for their data storage devices sold to its mainframe customers.

Result: This case settled favorably before the final argument after the plaintiff made a \$70 million claim.

Attorneys: Kathleen Strickland

Key Issues: Stereo Equipment; Advertising; False Advertising; Unfair Business Practices

Venue: Los Angeles County Superior Court

Client Type: Defendant Audio Video Equipment Manufacturer

Description: Retained by the CEA, on behalf of their members, to defend a class action filed by a consumer advocate company against a leading manufacturer of audio, video, and communications equipment and 56 co-defendants alleging unfair and fraudulent business practices under California Business and Professions Code section 17200, 17500 et seq. According to the suit, there was no standard effective piston area to outside diameter ratio upon which a consumer can rely in assessing the quality and power of a stereo speaker. Therefore, a consumer cannot extrapolate the size of a speaker's EPA and, consequently, its quality and power. The market for these speakers included portable audio, car audio, home audio, and home theater.

Result: The case resolved for less than negligence value after successful motion practice.

Attorneys: Kathleen Strickland

Key Issues: Breast Implant; Personal Injury; Wrongful Death; Cancer; Causation; Autoimmune Deficiency

Client Type: Defendant Global Technology Manufacturer

Description: Worked as national trial counsel with a team of attorneys assembled nationwide to defend a leading technology & medical products manufacturer in pharmaceutical litigation involving silicon gel breast implants. We served as trial counsel and retained and prepared scientific and medical experts as well as assisted in preparing a punitive damage defense for the company.

Attorneys: Kathleen Strickland

Key Issues: Cellular Phone; Radio Frequency, Emissions; Unfair Business Practices; Cancer; Systemic Disease, Causation

Venue: Multi District Litigation. USDC Court, Baltimore, Maryland

Client Type: Defendant Fortune 50 Cell Phone Manufacturer

Description: Retained by the "home office" of a Fortune 50 large international company who manufactured cell phones sold in the US to nationally defend and monitor six class actions filed by the plaintiffs in state and federal court who alleged unfair business practices and personal injury. The plaintiffs asserted that the defendants

manufactured, supplied, promoted, sold, leased and provided service for wireless handheld telephones when they knew or should have known that their products generate and emit radiofrequency radiation that causes an adverse cellular reaction and/or cellular dysfunction ("biological injury"). A critical part of the defense involved intensive medical analysis as the plaintiffs claimed a full range of injuries including brain cancer and systemic illnesses allegedly associated with the product.

Result: The case turned on Daubert hearings. After a successful Daubert challenge, we also prepared product insert labels for handheld devices.

Attorneys: Kathleen Strickland

Key Issues: Drugs; Fraud; White Collar Crime; Case-control Studies; Clinical Trials; Data Manipulation; FDA

Venue: USDC: Northern District of California

Client Type: Defendant Biopharmaceutical Manufacturer

Description: Retained by a well known Washington D.C. law firm to represent their client, a large biopharmaceutical firm in a criminal matter, and to conduct an internal investigation regarding allegations made by the US Attorneys office that a chemist had falsified data submitted to the FDA regarding the results of a clinical trial of a new potential drug.

Result: Ultimately, all allegations were proven false, the subpoena was quashed, the individual was not required to testify nor produce records before a federal grand jury and no charges were ever filed. The defendant company was thereafter sold to a pharmaceutical company based in Europe.

Attorneys: Kathleen Strickland

Key Issues: Environmental; Toxic Tort; Landfill; Remediation; Groundwater; Contamination

Venue: Macomb County, Michigan Circuit Court

Client Type: Defendants Environment Contractor & Municipal Authority

Description: The developers of properties neighboring a landfill brought an action against our client, the environmental contractor for the landfill, and five cities alleging that contamination from the landfills has migrated onto their properties and prevented development. The plaintiffs seek millions of dollars in claims from cost recovery for lost profits and contribution pursuant to the Natural Resources and Environmental Protection Act (Michigan's version of CERCLA), as well as tort claims, negligence, trespass and nuisance.

Result: Obtained summary judgment on all of the plaintiff's claims, resulting in dismissal of the action

Attorneys: Geoffrey W. Heineman, Kathleen Strickland

Key Issues: Bankruptcy; Asbestos; Contract Obligation; Defense; Indemnity

Venue: US Bankruptcy Court Southern District of New York

Client Type: Plaintiff Auto Parts Manufacturer

Description: Retained to represent Remy International, Inc. ("Remy") in the bankruptcy proceeding commenced by General Motors Corporation ("GM"). Remy purchased the assets of the former Delco Remy Division of GM pursuant to an Asset Purchase Agreement ("APA"). The APA, executed by and between Remy and GM, placed certain ongoing indemnity obligations on GM in connection with various litigation and potential claims relating to

GM products manufactured and premises occupied during the time period prior to the APA.

Result: Assisted Remy in securing testimony and documents needed to defend itself in a number of active cases, and subsequently obtained dismissals in all of those actions. We also assisted Remy in successfully pursuing a claim of bankruptcy for its costs of defense regarding those actions. More importantly we obtained for Remy, as part of GM's confirmed bankruptcy plan, protection from liability for asbestos claims relating to GM products manufactured and premises occupied during the time period prior to the APA. This is a relatively unprecedented achievement in a bankruptcy action that does not involve a Section 524(g) trust.

Attorneys: Kevin P. Cody

Key Issues: What was the Scope of an Easement? Did the Clients Violate Plaintiffs' Easement Rights?

Venue: Santa Clara County Superior Court

Client Type: Defendant Individual Homeowners

Description: Our clients and the plaintiffs were next door neighbors. The plaintiffs had an easement for ingress and egress running over a portion of our clients' property. Our clients undertook some remodel work on their property and the plaintiffs claimed that the work violated the plaintiffs' easement rights.

Result: After extensive litigation, the matter went to trial and the court interpreted the easement favorably for our clients.

Attorneys: Michael J. Ioannou

Key Issues: Real Estate

Venue: Santa Clara County Superior Court

Description: Represented a client in a real estate litigation suit involving a purchase by a retirement development company of the lease hold interests in four assisted-living condominium projects. The landlords claimed the ability to increase rent to fair market value (rent increase dispute in excess of \$1,000,000 per year for lease extensions for the next ten years).

Result: The case settled pursuant to a favorable confidential settlement and release.

Attorneys: Michael J. Ioannou

Key Issues: Breach of Lease

Client Type: Defendant Real Estate Investment & Development Company

Description: Represented the defendant, a real estate investment and development company, in a breach of commercial lease (quarry operation), interference with business advantage, conspiracy to interfere and other related tort claims suit.

Result: The demand prior to trial by the plaintiff was in excess of \$5,000,000 against the buyer defendants. The settlement offer was in excess of \$2,000,000. The case was tried for six months before a jury. We obtained a favorable verdict for our client (all tort claims and the breach of contract claim were limited to an \$80,000

damage payment).

Attorneys: Stephen J. Erigero

Key Issues: Real Estate Litigation

Venue: Los Angeles County Superior Court

Client Type: Defendant Real Estate Broker

Description: Defended a real estate broker in an action for fraud and breach of fiduciary duty based on the action of an independent real estate agent associated with the broker. The plaintiffs were elderly middle eastern immigrants who had amassed over 50 parcels of real estate over several decades. The real estate agent allegedly befriended the plaintiffs and used undue influence to cause the plaintiffs to list and sell properties providing excessive commissions and extra payments to the real estate agent. The plaintiffs sold most of their properties receiving less than 50 % of the net proceeds in several transactions.

Result: The case settled for a confidential amount.

Attorneys:

Key Issues: False Advertising; §17500

Venue: San Mateo County Superior Court

Client Type: Defendant Auto Auction Company

Description: Defended an auto action company in a 17200/17500 action.

Result: The court found in favor of our client and neither injunctive relief nor restitution was granted.

Attorneys:

Key Issues: False Advertising; §17500

Venue: San Francisco County Superior Court

Client Type: Defendants Health Food Manufacturer

Description: Defended a health food manufacturer in a 17200/17500 action. Our clients were two manufacturers of ginseng products accused of mislabeling in violation of Federal Law in a case with over 150 defendants.

Result: Negotiated a de minimis settlement with no admission of wrongdoing. Over half of the defendants are still in litigation 2 years later.

Attorneys:

Key Issues: Proposition 65

Venue: San Francisco County Superior Court

Client Type: Defendant Tool Manufacturer

Description: Defended a tool manufacturer in a Proposition 65 case involving allegations regarding PVC handles which supposedly contained lead.

Result: Successfully demonstrated that the products that the plaintiff had tested were forgeries of our client's

products, and further that the handles of our client's products were lead-free. The case was dismissed.

Attorneys:

Key Issues: Unfair Business Practice; §17200

Venue: San Francisco County Superior Court

Client Type: Defendant Importer

Description: Defended an importer in 17200 actions in which our client was accused of selling two products in violation of state standards, as well as employing unfair business practices.

Result: Successfully demonstrated that there were no violations, and thus, the cases were dismissed.

Attorneys:

Key Issues: Proposition 65

Venue: San Francisco County Superior Court

Client Type: Defendant Manufacturer

Description: Defended a manufacturer against an allegation that involved solvents used in glue.

Result: Successfully demonstrated that the exposure level to consumers from our client's products was below the Proposition 65 threshold. The matter was dismissed.

Attorneys:

Key Issues: First Amendment

Venue: United States Supreme Court

Client Type: Media Companies

Description: On behalf of two European media companies we filed an amicus brief with the United States Supreme Court in which we argued that the interpretation of Section 17500 B.&P.C. by the California Supreme Court seriously interfered with the European Union's requirements that companies report on social, environmental, and ethical issues in their annual reports.

Attorneys:

Key Issues: Unfair Business Practice; §17200

Venue: Contra Costa County Superior Court

Client Type: Defendant Consumer Goods Manufacturer

Description: Successfully defended a consumer goods manufacturer in a case related to claims of unfair business practices in the sale of personal care products.

Result: The matter was dismissed.

Attorneys:

Key Issues: Proposition 65

Venue: 1st District Court of Appeal

Client Type: Defendant Trade Group

Description: Represented a trade group of 15 companies in a Proposition 65 case involving allegations of silicates.

Result: In conjunction with the Attorney General, we obtained a favorable ruling from the Court of Appeals, which rejected an attempt by a private party bounty hunter to intervene. We settled the matter, and a de minimis payment was made to plaintiff.

Attorneys:

Key Issues: Proposition 65, Silicates

Venue: Solano County Superior Court

Client Type: Defendant

Description: The allegations involved silicates; we represented the chief scientist and a corporate officer of a biotech start-up accused of abandoning hazardous wastes at its former research facility.

Result: Following several demurrers to the criminal complaint, the prosecution dismissed all counts against our client.

Attorneys:

Key Issues: Unfair Business Practices; Unfair Competition

Venue: California Court of Appeal, First District

Client Type: Defendant Food & Catering Enterprise

Description: Represented a food and catering enterprise in an Unfair Business Practice Act matter involving allegations of trade name infringement, unfair competition and Lanham Act violations.

Result: Obtained a defense jury verdict.

Attorneys:

Key Issues: Unfair Business Practices

Venue: San Francisco County Superior Court

Client Type: Plaintiffs Group of Chinese-Americans

Description: Represented a group of five Chinese-Americans who were the purchasers of a pill which contained calcium combined with a oxidized form of Vitamin C. Our clients were class representatives in an Unfair Business Practices and Consumer Legal Remedies class action against a company that advertised extensively in the Chinese-American community regarding the product. The radio, television, and print media advertisements asserted that the product would provide several dozen benefits, including protecting the intelligence, increasing the I.Q. and "perfecting the structure of the cerebral tissue" of children, healing a herniated disk, curing edema and osteoporosis, providing more energy, healing cartilage, tendons, and muscles, eliminating virtually every ache and pain known to humankind, and not interfering with any prescription drug. All of the claims were false.

Result: The case settled following the first day of trial. Pursuant to the settlement, all consumers were entitled to seek reimbursement of their outlays for the purchase of the product.

Attorneys: Gregory M. Gentile

Key Issues: Intellectual Property; Breach of Contract; Defamation; Fraud; Misrepresentation

Venue: Santa Clara County Superior Court

Client Type: Defendant Private Client

Description: Successfully represented a local business entrepreneur in a complex partnership dispute between two joint venturers involving intellectual property. The claims were for breach of contract, defamation and fraud. Prosecuted those claims on behalf of the client while defending claims of misrepresentation and conversion. Defended the client at binding arbitration, obtaining a large monetary award from the arbitrator.

Result: Defended the case at a binding arbitration and successfully prosecuted claims of client.

Attorneys: Gregory M. Gentile

Key Issues: Negligence; Misrepresentation

Venue: San Mateo County Superior Court

Client Type: Defendant Home Inspection Company

Description: Successfully represented a home inspection company and home inspector as to claims of negligence and misrepresentation. The claims against the clients were part of a group litigation filed by a homeowner against the real estate agents, their brokers and inspectors who were involved in the sale of the home. The homeowner claimed undisclosed and undocumented defects pertaining to their purchase of their home.

Result: Successfully resolved the matter on behalf of the clients by bringing a motion for summary judgment.

Attorneys: Gregory M. Gentile

Key Issues: Breach of Contract; Breach of Loan Agreement

Venue: Santa Clara County Superior Court

Client Type: Defendants Mortgage Broker/Chubb Insured

Description: Successfully defended claims brought by borrowers against a mortgage broker and a lender for fraud, breach of contract, racial discrimination and invasion of privacy. The plaintiff borrowers asserted that their loan was procured by the fraud of the mortgage brokers and lenders. The lawsuit commenced in Federal District Court and was then remanded to State Court. Following discovery, we successfully brought a motion for summary judgment, removing clients from the case.

Result: The judgment was appealed by the plaintiff borrowers, and we thereafter defended the appeal at the appellate level. The Sixth District Appellate Court affirmed the judgment in favor of clients.

Attorneys: J. Mark Thacker

Key Issues: Breach of Contract; Retirement Benefits

Venue: San Mateo County Superior Court

Client Type: Defendant School District

Description: Defended our client, a school district, against a claim by its former chief business officer for breach of contract and past and future retirement benefits.

Result: A summary judgment motion and a mediation/settlement are currently pending.

Attorneys: Geoffrey W. Heineman

Key Issues: Defense of Director and Officer of Private Corporation

Venue: USDC: Southern District of New York

Client Type: Defendant Private Company

Description: The plaintiff was a supplier of fabric based in South Korea and sued our client, a company and its CEO, alleging that our client purposely defaulted on its secured loans and "devised a scheme" to sell its assets and avoid liabilities owed to the plaintiff. The plaintiff alleged that the client's sale of its assets to co-defendants was the result of a scheme made with actual intent to hinder, delay and/or defraud creditors. The complaint alleged breach of contract, UCC violations under §2-709 (Action for Price), common law unjust enrichment, account stated, conversion, successor liability and fraudulent conveyance. The plaintiff asked the court to pierce the corporate veil with respect to the individual defendants including the CEO.

Result: The court granted the motion to dismiss filed on behalf of our clients, and opposing counsel did not re-file an amended complaint even after the court allowed such an amendment following our demonstration to the plaintiff's counsel of the futility of the plaintiff's arguments as to the corporate and individual defendants.

Attorneys: Blaise U. Chow, Geoffrey W. Heineman

Key Issues: Professional Liability; Legal Malpractice; RESPA; Fraud; TILA; GBL Sec. 349 Claims

Venue: Saratoga County, New York Supreme Court

Client Type: Defendant Law Firm

Description: Represented a law firm that was sued as a result of a successful foreclosure prosecution. The plaintiffs sought leave to vacate the underlying foreclosure judgment. The plaintiffs argued that they had discovered "new" evidence that warranted a vacatur, including "concealed mailings" and the purposeful sending of documents to an "improper mailing addresses." The implication was that the law firm obtained a default summary judgment on the basis of wrongful conduct. We argued that the plaintiffs failed to establish why this allegedly new evidence could not have been reasonably discovered three years ago. We also argued principles of equity did not warrant vacating the judgment of foreclosure because the plaintiffs could not demonstrate any meritorious defense to the foreclosure proceeding, nor could they state a viable claim against the law firm.

Result: The judge granted the motion to dismiss filed on behalf of our clients following briefing and oral argument. No appeal was taken.

Attorneys: Blaise U. Chow, Geoffrey W. Heineman

Key Issues: Defense of Insurance Agents Malpractice

Venue: Quenes County, New York Supreme Court

Client Type: Defendant Insurance Provider

Description: On May 22, 2009, Queens Supreme Court Justice Satterfield granted the motion to dismiss filed on behalf of our client, an insurance agent for an insurer. The plaintiff sued our client for failing to procure adequate umbrella coverage. We moved to dismiss based on statute of limitations grounds. The Court found that the time to have sued our client had lapsed before the action was first filed and therefore the plaintiff's claim was barred by the statute of limitations (three years) under New York's CPLR. Specifically, the Court found that under the controlling law in the Second Department, the negligence claims asserted accrued when the allegedly inadequate umbrella policy was procured and issued. The Court went on to observe that, even if the date of the accident for which coverage was sought was deemed to be the date of the injury, the result would be the same because the action was not commenced within three years.

Result: The trial court granted our client's motion to dismiss, and opposing counsel has filed a notice of appeal.

Attorneys: Blaise U. Chow, Geoffrey W. Heineman

Key Issues: Insurance Coverage; Interpretation of Director and Officer Policy

Venue: USDC: District of Connecticut

Client Type: Defendant Insurance Provider

Description: Analyzed insurance coverage on two primary issues: 1) whether the value of a subsidiary was substantially inflated; and 2) whether the insured's financial statements and level of operating profitability were materially misrepresented by the failure to properly record the costs associated with warrants to third parties as a cost of sales and the failure to fully reveal the contingent nature of such agreements (including the risks of significant re-pricing of warrants and the tracking of the warrants against such sales). The damages estimates far exceeded the insurance coverage available among the entire "tower" of insurance. Through multiple rounds of mediation at which the insurers challenged whether the entity was a "subsidiary" or mere "affiliate", in which case there was no coverage, we mediated and struck a deal allowing our client to pay only a portion of its policy limits even though it appeared that this was a "policy limits" case. We achieved this result by urging various individual defendants to contribute personally towards the settlement, and demonstrating significant coverage defenses which resulted in the insured agreeing to pay amounts within the insurance tower.

Result: Negotiated various insurance coverage issues arising out of the securities class action, including whether a certain entity was insured, whether the individual defendants needed to contribute personally towards the settlement and whether the insured entity had non-insured exposure, and helped our client reduce the amount of exposure that it was responsible for during settlement. What originally was an excess of "policy limits" case turned into a case where the insurer saved a portion of its limits.

Attorneys: Lael D. Andara

Key Issues: contract, net share, music

Venue: N/A

Description: Client was in negotiations with a record company as to his continuing his activities as a music producer and writer in an exclusive capacity. Review and counseled on offered contract. Counsel as to how to obtain copyrights on music compositions.

Attorneys:

Key Issues: Clean Air Act

Venue: USDC: Northern District of California

Client Type: Defendant Circuit Board Manufacturer

Description: Represented a local air pollution control district in litigation against the U.S. Army for creating severe air pollution in the Monterey Bay area during the course of alleged remedial activities to remove unexploded ordnance at Ford Ord.

Result: The matter was ultimately settled with the Army agreeing to stringent burn-control procedures.

Attorneys:

Key Issues: Letter of Credit

Venue: U.S. District Court, Central District of California; U.S. Court of Appeals Ninth Circuit

Client Type: Bank

Description: The plaintiff beneficiary of letters of credit issued by JP Morgan Chase sued for alleged wrongful dishonor of \$1.5 million in draws on the letters of credit as well as for fraud.

Result: We obtained summary judgment dismissing the case in the trial court, which was affirmed by the Ninth Circuit on appeal.

Attorneys:

Key Issues: Fair Credit Reporting Act; Identity Theft; Credit Card

Venue: U.S. District Court, Central District of California; U.S. Court of Appeals Ninth Circuit

Client Type: Bank

Description: The plaintiff sued a credit card issuer, claiming that it wrongfully reported non-payment of unauthorized charges on a credit card account and sought to collect debt that arose from identity theft.

Result: The case was won on summary judgment in trial court, and affirmed on appeal by the Ninth Circuit.

Attorneys:

Key Issues: Fair Credit Reporting Act; Identity Theft; Credit Cards

Venue: U.S. District Court, Northern District of California

Client Type: Bank

Description: A consumer claimed that a credit card issuer was negligent in issuing credit cards to an identity thief and reported the status of the credit card accounts inaccurately. The case involved six defendants and approximately fifteen depositions.

Result: Our firm obtained summary judgment dismissing the case.

Attorneys: Andrew L. Margulis, Eric C. Weissman

Key Issues: Breach of Contract; Judgment; Execution

Venue: New York Supreme Court, County of New York

Client Type: Plaintiff Real Estate Developer

Description: The plaintiff, a residential real estate developer, hired the defendant to fabricate, furnish and install granite kitchen counter-tops in a residential building project the plaintiff was developing. The defendant accepted the plaintiff's payments of over \$50,000, but failed to render the appropriate services. The plaintiff then filed suit alleging breach of contract.

Result: After failing to abide by multiple discovery orders, the court struck the defendant's answer and entered judgment in favor of plaintiff. After an inquest before the court, whereat plaintiff was able to substantiate its damages, the court entered a final judgment in plaintiff's favor in the amount of approximately \$62,000. We were able to successfully execute on such judgment and recover a substantial amount of the \$62,000 for our client.

Attorneys: Geoffrey W. Heineman, Eric C. Weissman

Key Issues: Fraud; Breach of Contract

Venue: Supreme Court of New York, County of New York

Client Type: Defendant Directors of a Privately Held Company

Description: In 1996, Samer and Hussam Hamadeh founded Vault.com, Inc., an internet based company that provides career planning and information about companies and industry developments. In 2006, representatives of a private equity firm ("VSS") approached the Hamadehs and indicated that it was interested in acquiring Vault. After months of negotiations, the parties entered into a Merger Agreement. As part of the Merger Agreement, \$6.899 million in cash of the \$65 million purchase price, as well as \$1.630 million worth of "rollover" Vault stock, were placed into escrow to be used once accounts receivable and other financial figures were finalized. Shortly thereafter, the VSS contacted the Hamadehs and claimed that the accounts receivable figures were false and misleading by almost \$1 million. As a result, VSS asserted several claims against Samer and Hussam, including fraud and breach of contract, and sought to rescind the Merger Agreement (and the return of the \$65 million purchase amount).

Result: After more than a year of protracted and contentious litigation, the parties were able to reach a negotiated settlement that allowed the Hamadehs to keep the purchase proceeds.

Attorneys: Michael J. Ioannou, Lita M. Verrier

Key Issues: Copyright Infringement

Venue: USDC: Northern District of California

Client Type: Plaintiff Technology IT Services Company

Description: Represented the plaintiff, an IT services company, in a matter involving copyright infringement, unfair competition, misappropriation of trade secrets and declaratory relief related to the selling and licensing of products that enable integration and migration solutions for different business processes across heterogeneous systems by and through intelligent adapters.

Result: Obtained a favorable settlement for the client.

Attorneys: Michael J. Ioannou, Lita M. Verrier

Key Issues: Trade Secrets; Good Faith and Fair Dealing

Venue: Circuit Court for the State of Oregon, County of Multnomah

Client Type: Plaintiff Semiconductor Company

Description: Represented the plaintiff, a semiconductor company, in a matter involving misappropriation of proprietary information and trade secrets, breach of a mutual non-disclosure agreement, breach of the implied covenant of good faith and fair dealing, breach of an employment agreement, unfair competition, breach of the duty of loyalty and declaratory and injunctive relief.

Result: Obtained a confidential, favorable result for our client.

Attorneys: Gregory M. Gentile

Key Issues: Real Estate Commission Dispute; Breach of Contract; Interference With Prospective Economic Advantage

Venue: San Mateo County Superior Court

Client Type: Defendant Private Client

Description: Successfully represented a commercial business broker in a claim for broker's commission. The claim was that the client and others interfered with another broker's business relationship and defrauded him from his commission. The plaintiff's lawsuit was fraught with a variety of legal issues involving statute of limitations and contractual defenses.

Result: Brought a motion for judgment on the pleadings, which ultimately led the way to an expedient resolution of the matter for the client based on the available legal defenses.

Attorneys: Gregory M. Gentile

Key Issues: Breach of Contract; Negligence

Venue: Santa Clara County Superior Court

Client Type: Plaintiff; Purchaser of Manufactured Home

Description: Successfully arbitrated and obtained a judgment for a client attendant to claims against a general contractor for failure to relocate a manufactured home pursuant to an agreement. The claims against the general contractor were breach of contract, negligence and fraud (misrepresentation). The facts showed that the general contractor failed to perform as he was required, and in fact, abandoned his duties to the client.

Result: The claims were submitted to a binding arbitration, and the client was awarded substantial damages including attorney's fees as the prevailing party.

Attorneys:

Key Issues: Piercing Corporate Veil

Venue: Federal Court of Northern California

Client Type: Defendant Taiwan Computer Mother Board Manufacturer

Description: A U.S. publicly listed corporation alleged that our client, a Taiwan publicly listed company, was responsible for its subsidiary work in \$10 million contract damages.

Result: Successfully obtained a unanimous 8-0 verdict in favor of our client.

Attorneys:

Key Issues: Fraud and Breach of Contract, Arbitration in China and Defend Breach of Joint Venture Claim in US

Venue: Federal Court of District of Northern California

Client Type: Defendant High Tech Company in Silicon Valley

Description: Successfully represented our client, the defendant, in a case in which the plaintiff, a Corporation in China, initially filed a brief of arbitration in China. The plaintiff also filed a \$20 million lawsuit in the Federal Court of District of Northern California claiming a breach of a joint venture agreement in setting up a factory in China.

Result: The case was dismissed to client's satisfaction.

Attorneys:

Key Issues: Class Action; Dispute on Price Fixing and Sub-Par Quality

Venue: Federal Court of Pennsylvania

Client Type: Defendant Group of Taiwan Auto Parts Manufacturers

Description: Defended a group of auto part manufacturers in Taiwan from unsubstantiated claims on price fixing and sub-par quality of auto part products (i.e. lamps, plates, etc.) that were shipped to US for US consumers.

Result: Successfully defended the case against the Class Action suit by presenting conclusive evidence of the fair pricing and quality of the products. The federal court judge reviewed the evidences provided, and ruled in our client, the defendant's favor to have the case dismissed.

Attorneys:

Key Issues: Class Action; Unfair Business Practices

Venue: San Francisco County Superior Court

Client Type: Plaintiffs Chinese American Individuals Represented Through a Class Action Lawsuit

Description: Represented a group of Chinese American individuals in a class action lawsuit. Our clients were incensed by the false representation of calcium health supplement pills marketed widely in the Chinese American communities. The pills claimed numerous health benefits, which were false. We certified a class action lawsuit through court approval and through further investigation found lead exceeding the safety amount in the pills.

Result: Represented the plaintiff's interests to reach a favorable settlement.

Attorneys:

Key Issues: Enforcing a Personal Guarantee Agreement Against the Manufacturer

Client Type: US Company in Santa Clara County

Description: Represented a U.S. company in enforcing a personal guarantee agreement against the owner of a manufacturing company. The owner claimed to have no assets, but hid her assets in Taiwan. Through RMKB's representation, our client sued the owner, who was forced to settle and repay her debt through court actions.

Result: Successfully recovered the debt owed from the owner through an executed personal guarantee agreement.

Attorneys:

Key Issues: Litigation Regarding Check Kiting Scheme

Client Type: Defendant Individual

Description: Defended an individual in a matter in which the bank filed claims based on our client's debts incurred during a check kiting scheme. We pointed to the fallacy of the irregular incomes of the bank involved.

Result: The bank agreed to drop claims against our client in exchange for our client to not disclose bank fallacies.

Attorneys: Kevin P. Cody

Key Issues: Was There an Oral Contract Between the Parties for the Development of Residential Real Estate?
Was the Contract Breached by the Client in Failing to Transfer the Property to the Plaintiffs?

Venue: Santa Clara County Superior Court

Client Type: Defendant Individual/ Contractor

Description: Defended an individual contractor in a matter in which the plaintiffs claimed that our client failed to perform a contract to acquire and develop residential property, and thereafter build twelve homes on the property. Specifically, the plaintiffs alleged that the client failed to transfer the property to the plaintiffs after the plaintiffs paid a \$200,000 down payment and after the initial site improvement work had been completed by the client. As a result, the plaintiffs lost millions of dollars of profit they would have received on the sale of the homes.

Result: After the plaintiffs rejected our client's \$500,000 settlement offer, the matter was tried to a jury and the jury found in favor of our client concluding that material terms had never been agreed to and therefore there was no contract.

Attorneys: Kevin P. Cody

Key Issues: Ability of Client to Foreclose on Mechanic's Lien on Property Bank had Already Foreclosed

Venue: Santa Clara County Superior Court

Client Type: Plaintiff Land Improvement Contractor

Description: Our client, a land improvement contractor, contracted to perform site improvement work on residential property. The defendant bank financed the project and eventually foreclosed on the property when the developer defaulted. Our client sought recovery from the defendant, arguing his mechanic's lien was senior to the bank's deed of trust. The bank argued that there were defects in the client's lien claim and therefore the bank's deed of trust had seniority.

Result: The parties quickly agreed to mediation, and the matter settled successfully for our client, with our client being paid \$60,000.

Attorneys: Kevin P. Cody

Key Issues: Did Client Breach Written Agreements? Was Clients' Performance Excused?

Venue: Santa Clara County Superior Court

Client Type: Defendant Developer of Commercial Condominiums

Description: Our client, a developer of commercial condominiums, was sued by the plaintiffs, real estate brokers, who claimed that our client failed to pay commissions earned in the sale of 50 commercial condominium units.

Result: After extensive litigation and multiple settlement conferences, the case settled successfully for our client as our client paid less in commissions than the amounts stated in the written agreements with the brokers.

Attorneys: Kevin P. Cody

Key Issues: Did Defendant Employee Breach Contract? Did Defendant Title Insurance Company Breach its Fiduciary Duties to the Client? Did Client Breach Separate Agreement with Defendant Employee in Failing to Pay Defendant Employee?

Venue: Santa Clara County Superior Court

Client Type: Plaintiff Developer of Commercial Condominiums

Description: Our client, a developer of commercial condominiums, sued the defendant, an employee who had been working for the client, asserting that the employee had failed to pay for a condominium unit transferred to him. The defendant claimed the unit transfer was part of his compensation. Our client also sued another defendant, a title insurance company, asserting that the title insurance company's errors in the handling of the escrow for the unit resulted in the unit being transferred to the employee without payment being made for the unit. In a separate cross-claim, the employee claimed that our client failed to pay him more than \$100,000 in compensation owed on the sale of units in a separate commercial condominium project.

Result: After extensive litigation, the case settled successfully for our client on the eve of the trial. Our client received \$200,000, plus other considerations valued at \$25,000.

Attorneys: Kevin P. Cody

Key Issues: Which Party Breached \$150,000 Written Contract for Landscaping Work? Did Either Party Suffer Damages?

Venue: Alameda County Superior Court, California

Client Type: Plaintiff Landscape Architectural and Construction Firm

Description: Our client, a landscape architectural/construction firm, sued the defendant and the defendant cross-complained against our client, with both parties claiming that the other breached a landscape construction contract. Our client claimed that the defendant failed to pay according to the terms of the contract. The defendant claimed that he was current on all progress payments and that our client's work was deficient.

Result: After the defendant rejected our client's offer requiring both parties to walk away from the matter in exchange for mutual dismissals and insisted that the client pay defendant \$70,000, the matter was tried to the court. The court found in favor of our client and awarded our client \$30,000 in damages and all costs of litigation.

Attorneys: Kevin P. Cody

Key Issues: Did the Client Breach a Contract with Homeowners to Build the Homeowners' Home? Were Change Order Costs Excessive and/or Unapproved? Was the Project Unnecessarily Delayed? Was the Construction Deficient?

Venue: Binding Arbitration

Client Type: Plaintiff Developer/ Builder

Description: Our client, a developer/builder, filed for binding arbitration after his clients, homeowners, failed to pay \$300,000 still owed on the construction of the homeowner's \$1,600,000 home. The homeowners had boasted that they would get the home for \$300,000 less than it cost the client to build, asserting that the project was unnecessarily delayed, change orders were excessive and/or unapproved and the construction was deficient. Our client disputed the homeowners' claims.

Result: After numerous attempts to get the homeowners to mediate, all without success, the matter went to binding arbitration and a panel of three arbitrators found in favor of our client, with the recovery being in excess of \$500,000. Our client was awarded not only the \$300,000 still owed on the home, but also all attorney's fees and litigation costs.

Attorneys: J. Mark Thacker

Key Issues: Cybersquatting; Trademark; Trade Libel

Venue: San Mateo Superior Court

Client Type: Plaintiff Trade Name Owners

Description: 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: 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.

Attorneys: J. Mark Thacker

Key Issues: Conversion; Fraud

Venue: USDC: Northern District of California

Client Type: Defendant

Description: 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 the plaintiff.

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

Attorneys: François G. Laugier

Key Issues: False Advertising, Unfair Business Practices, Organic, Cosmetics, Natural, Certification, Federal Preemption, FDA, USDA

Venue: San Francisco District Court

Client Type: Defendant French Certifier of Organic Cosmetics

Description: Dr. Bronner's Magic Soups sued Ecocert, a French company that certified natural and organic cosmetic products pursuant to a standard approved by the French Government, and numerous cosmetic companies in a complaint that alleged that the cosmetic companies claimed that their products were "organic" when they allegedly were not. The plaintiff alleged that Ecocert's certification standard was misleading although it was publicly available and approved by the French Government. Following numerous attempts to state a valid cause of action, the California Superior Court dismissed the case on the grounds that plaintiff lacked standing to bring the claims. The plaintiff thereafter filed a Lanham Act claim in Federal court which made the same types of allegations made in state court. Ecocert's position throughout was that it certified products based on a life-cycle assessment of a firm's cosmetic ingredients, and that it certified products pursuant to a publicly available standard, approved by the French Government, which was posted on the web in a multitude of languages, including English.

Result: The state court case was dismissed after the plaintiff was given numerous opportunities to amend its complaint to attempt to state a valid claim, due to its lack of standing to bring the claim. In essence, Dr. Bronner was unable to show that it was harmed in any manner that would allow it relief under California State law. In federal court, the case was dismissed as to Ecocert on two grounds: a) Federal preemption (U.S.D.A. administered a national organic program that occupied the regulatory arena), and b) Ecocert and Dr. Bronner were not competitors, as required to state a claim under the Lanham Act. In addressing the publicity that arose from the litigation, RMKB also assisted in helping the public to understand that plaintiff's goal was to impose its view of what an "organic" standard should upon the rest of the commercial world, a standard that did not reflect

the views of governmental regulations or most consumers.

Attorneys: Stacy Monahan Tucker

Key Issues: Breach of Contract; Bad Faith; Misrepresentation; Discrimination

Venue: United States District Court, Eastern District of California

Client Type: Defendant; Insurance Company

Description: The plaintiffs claimed over a quarter of a million dollars in goods were stolen from their home in a two hour period and filed a claim for reimbursement on their homeowners insurance. During the investigation a number of discrepancies arose between the plaintiffs' various statements and the evidence available. The claim was denied for failure to cooperate with the investigation and the plaintiffs subsequently filed suit. The plaintiffs alleged breach of contract, bad faith and racial discrimination.

Result: During the course of discovery, we obtained significant evidence of the plaintiffs' misrepresentations, and confirmed their failure to cooperate with the investigation under the terms of the policy. Confronted with the evidence against them, the plaintiffs chose to voluntarily dismiss the case on the eve of our filing for summary judgment. No settlement was paid.

Attorneys: Pamela E. Cogan (Retired), Stacy Monahan Tucker

Key Issues: Breach of Contract; Bad Faith

Venue: United States District Court; Northern District of California

Client Type: Defendant; Insurance Company

Description: A limited partnership created for real estate development was sued for construction defects after the sale of a property they developed. The partnership sought a defense from their insurance company both for the partnership and the individual partners sued. Because the partnership had rented out the property as apartments prior to selling the property, the insurer maintained that the claim was excluded due to an exclusion in the policy for damage to "property you own, rent or occupy." The insured's argued that they rented out individual units but not the entire building, and that the "you" applied only to the partnership, not the individual partners.

Result: The parties filed cross motions for summary judgment. The court upheld the insurer's interpretation of the contract and dismissed the complaint with prejudice.

Attorneys: Pamela E. Cogan (Retired), Stacy Monahan Tucker

Key Issues: Claim for Disability Benefits Governed by ERISA

Venue: United States District Court, Northern District of California

Client Type: Defendant; Insurance Company

Description: Insured sought reinstatement of disability benefits despite admissions that she could work in her family store. Plaintiff argued that such work did not meet her status in life.

Result: The parties filed cross motions for judgment. The court determined that the "status in life" standard was a state law standard which was preempted by ERISA, and the insurance contract provided no obligation to

maintain an insured's status in life. As plaintiff was able to work in an occupation, she was not disabled and not entitled to benefits under the policy. Plaintiff's complaint was dismissed with prejudice.

Attorneys: Michael J. Ioannou

Key Issues: M&A

Venue: USDC Northern District

Client Type: Defendant International Public Software/IT Outsourcing Company

Description: This federal action was brought by plaintiffs against our client for breach of merger agreement for failure to pay \$20 million based on an "earn out" formula in the merger agreement.

Result: The trial started with bifurcated in limine motions. Case settled after a favorable ruling denying plaintiffs' motion to exclude evidence of unclean hands of plaintiff.

Attorneys: Pamela E. Cogan (Retired), Stacy Monahan Tucker

Client Type: Defendant, Insurance Company, Insurance Plan

Description: Plaintiff sued for ERISA benefits valued at over \$3 million. Investigation proved that while seeking benefits, Plaintiff had accepted a severance package from her employer and signed a release without informing her insurance company. Plaintiff claimed she was told the release would not affect her ability to receive benefits.

Result: The court concluded that the severance agreement released all ERISA claims against the employer, its insurance plan and the insurer if Plaintiff signed the release knowingly and voluntarily. The court conducted a bench trial on the issue of knowing and voluntary release and ruled that Plaintiff was not credible and she had knowingly and voluntarily her rights to her ERISA benefits. The court entered judgment in favor of defendants.

Attorneys: Pamela E. Cogan (Retired), Stacy Monahan Tucker

Client Type: Defendant, Insurance Company. Practice Areas, Business and Commercial Litigation, Insurance Services, Arbitration

Description: Plaintiff insured filed an uninsured motorist claim. After rejecting a series of settlement offers from the insurer, the case went to mandatory arbitration where plaintiff was awarded less than the insurer's final settlement offer. Plaintiff sued the insurer for bad faith for its alleged conduct in the investigation of her claim and in the arbitration.

Result: Defendant demurred twice to plaintiff's complaints. The court sustained each demurrer. It granted plaintiff leave to amend after the first demurrer but sustained the second demurrer without leave to amend, finding that plaintiff was not able to allege a cognizable cause of action based on the allegations in the complaints filed in the litigation.

Attorneys: Stacy Monahan Tucker

Venue: Northern District of California

Client Type: Defendant, Internet Website

Description: Plaintiff sued Defendant, an online price comparison and shopping website, direct and contributory

and vicarious trademark violations for listings of allegedly counterfeit products. Defendant explained that the listings were not generated by the Defendant and its service terms and online fraud prevention efforts as outlined by *Tiffany Inc. v eBay*, 600 F.3d 93 (2d. Cir. 2010.)

Result: After extensive discovery motion practice in which defendant consistently prevailed, the parties reached a confidential settlement.

Attorneys: Stacy Monahan Tucker

Venue: Northern District of California

Client Type: Defendant, Hospital System

Description: Ex-employees sued the health system for which they had worked as qui tam relators under the False Claims Act, alleging that they witnessed Medicare fraud during their employment.

Result: After three motions to dismiss relating to the sufficiency of the relators' allegations, which were granted with leave to amend, the primary relator dropped out of the suit. We were able to successfully argue that the remaining relators were not the "original source" of the information as required under the FCA when a prior public disclosure existed, and that the court therefore did not have subject matter jurisdiction. The court dismissed the action with prejudice.

Attorneys: Nicole S. Healy, Todd A. Roberts

Key Issues: Interference with contract and with prospective business advantage

Venue: Contra Costa County Superior Court

Client Type: Defendant grease recycling company and executive

Description: Represented company that recycled restaurant grease in dispute with competitor over alleged interference with customer contracts.

Result: Case settled

Attorneys: Nicole S. Healy

Key Issues: Breach of contract

Venue: Marin County Superior Court

Client Type: California-based manufacturer

Description: Represented California-based manufacturer (who was not a party to the lawsuit) in dispute over installation of client's product in transportation district's facility; general contractor had sued project owner for payments due, and our client, who was also owed substantial amount, voluntarily agreed to engage in mediation.

Result: Case settled

Attorneys: Nicole S. Healy, Todd A. Roberts

Key Issues: Federal and state securities law violations, fraud and misrepresentation, breach of contract

Venue: U.S. District Court, Central District of California

Client Type: Defendant non-public company and executive

Description: Plaintiffs alleged they had invested \$150,000 in a privately-held company and claimed that company officer had made misrepresentations to induce their investment and then later made additional misrepresentations in connection with a supposed settlement that plaintiffs allege was breached. Case involved complicated legal issues concerning whether the investment was a security.

Result: Case settled

Attorneys: Nicole S. Healy, Todd A. Roberts

Key Issues: Securities law violations, fraud and misrepresentation, breach of fiduciary duty, breach of contract

Venue: Placer County Superior Court

Client Type: Defendant non-public biotechnology company, directors and executive

Description: Plaintiff alleged that he loaned \$100,000 to a privately-held company and that the loan was converted to equity against his intent and without his knowledge. His investment eventually lost its value and some time later, the company filed a Chapter 11 bankruptcy petition. The case involved complex securities law issues. Following our submission of a detailed factual and legal analysis in a settlement communication to plaintiff's counsel the parties settled the case.

Result: Case settled

Attorneys: Nicole S. Healy, Todd A. Roberts

Key Issues: Breach of contract; cross-claims for intentional interference with contract, and intentional interference with prospect

Venue: San Mateo County Superior Court

Client Type: California-based manufacturer

Description: Represented California-based manufacturer in dispute over proposal to install client's product in city's transportation facility; city did not accept our client's product as a substitute for the specified product and general contractor sued our client for the difference between its product and specified product supplied by its competitor; our client cross-claimed against the city for intentional interference with contract, and intentional interference with prospective economic advantage.

Result: Case settled

Attorneys:

Key Issues: wine; tapas; bar; restaurant; franchise; alcohol; lease; real estate

Venue: Supreme Court New York County

Client Type: Advertising Agency

Description: Represented client in connection with the negotiation of a franchise agreement and real estate lease for a wine and tapas bar.

Attorneys:

Key Issues: Advertising; Merger; Acquisition; Agency; Ad; Media; Technology; Digital

Description: Represented New York digital advertising agency in its \$15 million cash and stock acquisition by a global media company.

Attorneys:

Key Issues: technology; coding; software; programming; venture capital; charity; 501(c)(3)

Client Type: Non-Profit Technology Company

Description: Represented venture capitalist and tech entrepreneur in the formation and establishment of a non-profit organization designed to help build technology solutions for elections, city governance, women safety, education and other philanthropic and ethical endeavors.

Attorneys:

Key Issues: IT; Technology; Computers; Business;

Client Type: Information Technology Company

Description: Represented international IT company in connection with all contractual matters, including establishing foreign entities, licensing, reselling, employment of executives, and engagement of independent contractors.

Attorneys: Tim M. Agajanian

Key Issues: Breach of Contract; Conversion

Venue: Los Angeles Superior Court

Client Type: Individual Defendant

Description: Represented an individual in a breach of contract and conversion action in a dispute over an agreement to purchase and exchange vintage French wine.

Result: The matter was amicably resolved on terms favorable to our client

Attorneys: Blaise U. Chow

Key Issues: Partnership Agreement Dispute

Venue: New York Superior Court

Client Type: Defendant, Individual Professional Partner

Description: Excess insurer eroded nearly all its limits through indemnification of defense costs arising out of criminal enforcement proceeding against individual director defendants. An individual defendant eventually pleaded guilty to conspiracy to commit securities fraud. Argued that the fraud and intention act exclusion applied and entitled client to recoup all defense costs.

Result: Multi-million dollar recoupment upon advancing position statement on the applicability of D&O insurance coverage exclusions.

Attorneys: Gregory M. Gentile

Key Issues: TRO/Injunctive Relief Due to Threatening Conduct

Venue: Santa Clara County Superior Court

Client Type: Law Firm

Description: Opposition party in pending real estate litigation with clients of firm made threatening comments by voice-mail to attorney. Given the past experience with the party, a restraining order was sought and obtained following a court trial before the Honorable Derek Woodhouse. Opposition party has filed an appeal.

Result: Following a court trial in which testimony was taken and evidence received, the Court granted the restraining order.

Attorneys: John G. Dooling

Key Issues: Secured Lending, Usury, Promissory Note, Security Agreement, U.C.C., Malpractice

Venue: County of San Francisco Superior Court

Client Type: Defendant private lender

Description: Represented limited partnership, managing general partner (a limited liability company), and the managing member of the limited liability company in action by plaintiff lender to recover on a promissory note. Tried defendants' rescission defense to the court and prevailed, resulting in no personal liability for the managing member and plaintiff abandoning his claims against the other defendants through settlement. Plaintiff lender had also been the defendants' attorney in several prior lawsuits.

Result: A defense verdict on our affirmative defense for rescission of the promissory note and security agreement, resulting in a settlement in which plaintiff abandoned his remaining claims.

Attorneys: Colette R. Thomason

Key Issues: breach; construction; contract; abandonment; admissions; summary; judgment

Venue: Monterey Superior Court

Client Type: Plaintiff homeowner

Description: Our client hired the defendant (a general contractor) to build a home, but the defendant abandoned the project before completion, walking off the job in the middle of winter. Our client hired another contractor to complete the project at a substantial cost increase, then sued the defendant for the difference.

Result: Defendant failed to respond to discovery requests for several months, after which successfully moved for the requests to be admitted as a discovery sanction. We subsequently prevailed on summary judgment and obtained the full amount sought in the complaint, along with reimbursement of our client's attorneys' fees.

Attorneys: Tim M. Agajanian

Key Issues: Breach; contract; tax preparation; franchise; excessive royalties; financial services

Venue: Los Angeles Superior Court

Client Type: Defendant Tax Preparation Services Franchisor

Description: Defended franchisor in which the plaintiff, it's franchisee, alleged that the defendant withheld excessive royalties and transaction fees, charged excessive advertising fees, and improperly routed calls to other

franchisees, violating the protected area covenant.

Result: Obtained judgment in favor of the defendant in all causes of action, including failure to pay royalty fees, alleged in the plaintiff's complaint. The court found in favor of Defendant and Cross-Complainant on its cross-complaint for breach of contract against plaintiff, who will pay the defendant the sum \$867,684. The Judgment in favor of Defendant and Cross-Complainant included a finding that Defendant and Cross-complainant was the prevailing party.

Attorneys: Nicole S. Healy, Todd A. Roberts

Key Issues: dispute over development of customized software

Venue: Wisconsin

Client Type: Defendant software developer

Description: The parties entered into two contracts for the implementation of human resources software. The plaintiff was very satisfied with the first project which required little customization. The second agreement involved a highly customized software program that required complex design, development, and integration. The plaintiff was dissatisfied and sued for, among other things, breach of contract and misrepresentation.

Result: The case settled at mediation.

Attorneys:

Key Issues: UCC; checks; forged or missing indorsements

Venue: Superior Court of the State of California, Alameda County

Client Type: Bank

Description: Our client, a bank, was sued by its customer for charging more than \$300,000 in checks to the customer's account. The customer alleged that the checks were lacking all necessary indorsements. We brought a cross-complaint for indemnification against the bank that presented the same checks for payment to our client. The cross-complaint was based on the provisions in Articles 3 & 4 of the UCC that provide that a bank that presents checks for payment and obtains payment warrants that the checks contain all necessary indorsements.

Result: We obtained a summary judgment declaring that the bank that presented the checks for payment had a duty to defend, indemnify and hold our client harmless.

Attorneys: Spencer C. Martinez

Key Issues: Electronic; dance; music; events; partnership; contract; conversion

Venue: San Francisco Superior Court

Client Type: Defendant/cross-complainant, Electronic Dance Music Event Founder And Proprietor

Description: Represented the defendant (the founder and proprietor of a large San Francisco-based weekly electronic dance event) against claims by a former event worker that she and others were defendant's "implied partners," retroactive to the event's inception.

Result: The plaintiff/event worker, who our client hired when the business was in its nascent stages, claimed years later that she and others were entitled to a partnership interest in the business. (Our client had by then developed the business into a large and successful enterprise.) Plaintiff made her initial demand for partnership

after misappropriating substantial cash receipts of the business, and attempting to use her possession of these funds to leverage her demand. When our client refused, plaintiff filed a lawsuit claiming that the business was always a partnership. We defeated successive motions by plaintiff for injunctive relief which would have required our client to (among other things) account to plaintiff and make plaintiff a de facto manager of the business pending resolution of the action. We also counterclaimed against plaintiff to recover the money misappropriated, and obtained a court order requiring plaintiff to deposit the money with the court to ensure its preservation. Following a five-week trial, the jury returned a complete defense verdict finding that plaintiff's claim of "partnership" against our client was wholly without merit. The jury also found for our client on his counterclaim, resulting in final judgment in our client's favor (and against the plaintiff) for the money taken, plus substantial interest and costs.

Attorneys: Spencer C. Martinez

Key Issues: Entertainment; event; international; partnership; breach; contract

Venue: San Francisco Superior Court

Client Type: Defendant International Event Producer

Description: Represented the producer of a popular international music festival against claims by a past worker and contributor, that she was entitled to a prospective ownership interest or other financial stake in the business as a result of her contributions.

Result: On behalf of our out-of-state Clients, we secured additional time to respond to the Complaint and engaged Plaintiff in dialogue in effort to resolve the dispute. The matter was resolved swiftly on favorable terms, and the case was dismissed without any need for our Clients to formally appear.

Attorneys: Robert A. Rivas

Key Issues: international, commercial litigation

Venue: Superior Court of California

Client Type: Construction and Environmental Services

Description: Client US construction and environmental disaster remedial services provider brought action against Cancun Hilton for breach of contract involving disaster remedial services after Hurricane Wilma.

Result: Settled favorably.

Attorneys: Robert A. Rivas

Key Issues: International commercial litigation financial

Venue: Superior Court of California

Client Type: Foreign Bank

Description: Client foreign bank sued US account debtor of foreign borrower for foreclosure of international accounts receivable and fraudulent transfer during concurrently pending foreign bankruptcy proceeding involving borrower and debtor of client.

Result: Confidential Settlement.

Attorneys: Robert A. Rivas

Key Issues: International commercial litigation arbitration

Venue: American Arbitration Association International Centre for Dispute Resolution

Client Type: Foreign Bank

Description: Defense of arbitration matter brought by US developers of Cabo San Lucas Country Club against client foreign bank alleging client failed to transfer beneficiary interest of land trust over resort to purchasers and developers of Mexican resort.

Result: Settled favorably.

Attorneys: Robert A. Rivas

Key Issues: Wine Beer and Spirits, litigation

Venue: Superior Court of California

Client Type: Spirits Manufacturer

Description: Client, famous spirits brand manufacturer, sued US importer for rescission of US importation and distribution network allowing Tequila Cazadores to be sold to Bacardi and restructuring of US importation and distribution.

Result: Confidential Settlement allowing Tequila Cazadores to be sold to Bacardi.

Attorneys: Terry Anastassiou, Stephan Choo, Spencer C. Martinez, Kathleen Strickland

Key Issues: Fraudulent transfer, fraudulent conveyance, non-vessel operating common carrier, NVOCC, assets, receivables

Venue: U.S. District Court, Central District of California

Client Type: Defendant, Non-vessel Operating Common Carrier

Description: The plaintiff was a longshoreman who was injured at a commercial maritime facility in Southern California. The plaintiff brought a personal injury action against four entities allegedly at fault for the incident, including our client (a United States common freight carrier) and a Malaysian entity also engaged in the business of international shipping. The plaintiff dismissed our client and several other defendants from the personal injury litigation, and later obtained a multi-million dollar default judgment against the Malaysian entity as the sole remaining defendant. Thereafter, the plaintiff commenced federal litigation against our client, alleging that our client was the Malaysian entity's "alter ego," or alternatively, had received "fraudulent conveyances" of money and/or receivables from the Malaysian entity that should have been turned over to plaintiff to satisfy the default judgment.

Result: We promptly sought and obtained a court order staying the litigation and all discovery, pending resolution of an appeal by the Malaysian entity challenging the validity of the underlying default judgment (upon which the new federal action against our client was based). When the stay expired, we successfully moved to dismiss plaintiff's cause of action for "alter ego" as legally untenable, leaving only plaintiff's causes of action alleging "fraudulent conveyance." Plaintiff thereafter directed substantial discovery demands and motion practice to our client which were patently designed to coerce a prompt settlement. We successfully limited the scope of permissible discovery and opposed plaintiff's other motions, ultimately securing sanctions against plaintiff for procedural and discovery abuse. Shortly afterwards, we obtained summary judgment for our client upon the

plaintiff's remaining claims, completely resolving the litigation in our client's favor.

Attorneys: Stephan Choo, Kathleen Strickland

Key Issues: Class Action; Product Liability; Breach of Warranty; Unfair Competition; Fraudulent Inducement

Venue: U.S. District Court, Northern District of California

Client Type: Defendant, Telecommunications

Description: Represented international corporation who designed and sold through various distributors telecommunications cable that was manufactured by a third party. A worldwide class action was brought against Defendant for alleged defects in the cable, with claims of negligence, breach of implied and express warranty, and breach of various states' consumer protection/fraud acts.

Result: The Court denied the Plaintiffs' motion for class certification in its entirety. The Court held that the proposed nationwide class (formerly worldwide) for the express warranty claim could not be certified because the laws of each putative class member's state (or foreign country) of residence applies, and conflicts with those laws meant that common issues did not predominate (Rule 23(b)(3)). Plaintiffs' reply brief conceded a nationwide fraudulent inducement class could not be certified due to the same predominance issue, but proposed Rule 23(c)(4) issue classes with a national class for breach of express warranty. After determining that a conflict of law analysis precluded a nationwide breach of express warranty class, the Court rejected Plaintiffs' proposed 8 issue classes, finding a lack of commonality, typicality, superiority, manageability, and adequacy of representation by the proposed class representatives (i.e., the Plaintiffs). Plaintiffs have sought relief from the Ninth Circuit Court of Appeals.

Attorneys: Stephan A. Barber

Key Issues: preference transfers; avoidance by unsecured creditors

Venue: United States Bankruptcy Court, Northern District of California, San Jose Division

Client Type: Janitorial and Building Services

Description: Environmental Service Partners, Inc. ("ESP") is a significant janitorial and complete building services contractor. ESP had contracts with Mi Pueblo Stores to perform regular building maintenance services at a large number of Mi Pueblo's retail stores in the San Francisco Bay Area. Mi Pueblo was experiencing financial difficulties in 2013, but asked ESP to continue performing its contracts. Mi Pueblo filed its Chapter 11 Bankruptcy Petition on 7/22/2013. ESP continued to perform its contracts post-petition. ESP's creditor's claim to be paid for some of the post-petition services was denied. The unsecured creditors sued ESP, claiming that \$175,884.42 of payments to ESP in the 90 days preceding the filing of the Petition were preference transfers which were avoidable by the unsecured creditors. ESP asserted several defenses, some of which were based upon section 547(c) of the U. S. Bankruptcy Code. ESP also alleged that the creditors did not have standing to sue. During discovery and settlement negotiations, the unsecured creditors agreed to dismiss their lawsuit in return for a waiver of costs.

Result: Dismissal with prejudice in return for ESP's waiver of costs.

Attorneys: Stephan A. Barber

Key Issues: Homeowners Associations; Governing Documents; Davis-Stirling Common Interest Development Act

Venue: Santa Clara County Superior Court, California

Client Type: Homeowners Association

Description: Plaintiff owns a single family residence within the property governed and managed by the Rancho Palma Grande Homeowners Association. Plaintiff's residence was built on two units or lots within the development. For many years, Plaintiff and his two predecessor owners were assessed two monthly dues because it was the HOA's position that the subject property comprised two "units" for purposes of the governing documents. Plaintiff disputed the HOA's interpretation of the documents and claimed that he owns one unit, not two. Plaintiff asserted a formal claim against the HOA as required by the Davis-Stirling Act. The claim was denied and the parties agreed to pre-suit mediation at JAMS. The mediation did not result in a settlement.

Plaintiff then filed suit, alleging causes of action for quiet title, declaratory judgment, and a permanent injunction. Plaintiff sought damages in the form of reimbursement of the double monthly dues he had paid over the past several years. A court trial was held in April 2012. The trial judge accepted the HOA's interpretation of the governing documents and ruled against Plaintiff.

Result: Judgment in favor of Rancho Palma Grande HOA. The Judgment was affirmed on appeal and the Court of Appeal ruled in favor of the HOA on its Appeal/Cross-Appeal. The HOA received judgment for the full amount of all attorney's fees and costs incurred from the time Plaintiff made his claim through the HOA's Second Motion for An Award of Attorney's Fees and Costs.

Attorneys: Spencer C. Martinez, Kathleen Strickland

Key Issues: Class Action, Business litigation

Venue: San Bernadino County Superior Court

Client Type: Major National Retail Chain

Description: Plaintiff alleged that he purchased a battery-powered self-balancing scooter (commonly referred to as a "hoverboard") from our client, a large national retailer of electronics and other products, and that the hoverboard spontaneously caught fire when its end-user attempted to charge its battery. Plaintiff commenced a putative class action generally alleging products liability and breach of warranties, on behalf of himself and all similarly-situated purchasers of hoverboard products from our client over a period spanning several years.

Result: We promptly investigated the veracity of the plaintiff/ putative class representative's claim that he purchased the allegedly defective hoverboard from our client, including through pointed written discovery, and determined that it was factually impossible that plaintiff indeed purchased the product from our client. We thereupon promptly engaged the plaintiff in settlement discussions directed to both the plaintiffs' claims and those of the putative class. The matter was promptly resolved upon terms that were extremely favorable to our client, without the need to engage in costly discovery going further into the merits of the product liability claim or plaintiff's class action allegations.