

# Commercial Law, Intellectual Property & Unfair Competition

360°

**Morris Polich & Purdy's** commercial litigation lawyers provide a wealth of legal expertise to our clients in a wide range of industries. We represent clients from Fortune 100 international and multinational corporations to small closely-held family businesses. Our lawyers handle the gamut of commercial litigation matters, including multi-party contractual disputes, class actions, unfair competition, trademark infringement, securities fraud, officer and director liability, partnership and intra-corporate disputes, antitrust, intellectual property, and real estate litigation.

## **Our clients include:**

- Medical device, pharmaceutical and biotech companies
- Real estate developers
- Financial institutions
- Hospitals
- Medical groups
- Industrial and consumer products manufacturers
- Chemical manufacturers and distributors
- Security companies
- Data delivery providers
- Real estate brokerage firms
- Architectural firms
- Radio and print media firms
- Retailers
- Construction companies
- Engineering firms
- Professional service firms

## REPRESENTATIVE MATTERS

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### General Commercial Litigation

- Recovered full compensation for a health care company that had been victimized by employees running an invoice scam that diverted more than \$500,000 of the company's general funds.
- Obtained a defense verdict in trial on behalf of a well-known developer who was sued under California's complex school fee statutes by a formerly bankrupt school district. Not only was the district's \$12,000,000 claim defeated, but the district was required to return millions in fees previously paid.
- Obtained a \$600,000 verdict against a member of a prominent family who misappropriated \$600,000 in commercial rent and funneled it through a religious organization.
- Obtained a preliminary injunction freezing the assets of a Korean bank in a letter of credit dispute.
- Successfully represented a passenger vessel operator seeking damages in a federal court action against an aluminum manufacturer that had sold aluminum plate (which corroded in a marine environment) to our client's boat builder. We also represented our client in a settlement with the boat builder, prior to client's and boat builder's collaborative claims against the aluminum manufacturer.
- Successfully obtained the eviction of a commercial tenant who had failed to pay rent for over one year. Further assisted the lessor company in properly disposing of equipment and machinery abandoned by the tenant after being evicted from the property.
- Froze more than \$230,000 of illicit profits derived by a business office employee of a hospital in a fraudulent refund check scheme. Worked with our client and Los Angeles detectives to cause the employee to be arrested at the place of employment, with incriminating evidence in possession.
- Represented a prominent dental implant surgeon in separating business operations from a business partner in the dental practice, and disclosed diversion of insurance reimbursement payments by the partner. Our client retained the pre-existing business location.
- Favorably settled a corporate shareholder dispute involving a partition action on

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behalf of two individuals, a cross-complainant (in addition defense of the underlying complaint) on behalf of our corporate client, and the transfer of certain outstanding shares to one of the individuals involved in the partition action.

- Successfully represented a shareholder of a company that sells and installs windows in a business ownership dispute, and obtained compensation for buyout of his 50% ownership.
- Successfully expunged lis pendens on real property for a motorcycle manufacturer.
- On behalf of a contractor client, we successfully intervened into and stayed on-going lawsuit for purposes of protecting the client's rights to the proceeds of an insurance policy that the plaintiff/site owner was seeking to unilaterally access and exhaust for its own benefit.
- Obtained dismissal of all tort and punitive damages claims brought against a manufacturer client by a party claiming our client breached an agreement to develop and commercialize a new technology.
- Concluded an eviction action for a Las Vegas commercial landlord and successfully evicted the difficult tenant.
- Obtained a very favorable settlement for a seller, a nationwide manufacturer of packaging and wrappers, in a UCC case involving the seller's imperfect tender, and the buyer's failure to timely notify the seller of imperfect tender.
- Won a \$700,000 verdict in a non-dischargeability trial in bankruptcy court, Southern District of California, on behalf of a client against the client's former business partner. The case involved a business based in California but operated in Mexico, and was based upon fraud, as well as embezzlement of company funds and assets.
- Successfully defended a major bank in an action alleging wrongful payment of funds brought by a local money order/exchange business doing business in California and Mexico.
- Obtained a \$500,000 judgment on behalf of a Mexican client against a California business alleging fraud and breach of contract in a transaction which took place in California and arose out of negotiations engaged in Mexico City.

## REPRESENTATIVE MATTERS (CONTINUED)

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### Copyright

- We successfully represented a jazz record label, casino and various individual record producers against a musician's union in a copyright infringement action involving the use of originally "boot-legged" recordings of A-list artists' concerts.
- We successfully represented a professional coaching corporation against copyright infringement claims by a competitor involving use of coaching literature.
- MPP represented an architectural firm in three large-scale copyright infringement actions involving a real estate developers' use of our client's architectural plans for the construction of unauthorized apartment and timeshare communities.

### Trademark

- Our client was sued in a trademark infringement case brought by a European sports car manufacturer over our client's use of the company's logo and trademark. We obtained monetary recovery for our client, the defendant.
- Despite initial, significant resistance by the PTO examining attorney to statement of use, we obtained a federally registered trademark for an NBA All-Star Player.
- We successfully represented a digital printing company in trademark litigation over a competitor's use of trade names, resulting in geographical use protection for our client.
- When an advertising specialty client was sued by a manufacturer of gift pens as a result of online advertising activities, we obtained a favorable settlement of trademark infringement and litigation.
- We obtained permanent injunction in favor of our client, a children's health food company, against a competitor which used a confusingly similar internet domain name.

### Unfair Competition

- Won a jury verdict in Nevada state court in favor of a large California corporation in a breach of fiduciary duty lawsuit against the corporation's former executive vice president, following his dissemination of several privileged written communications to a competitor while employed with the company.
- Won a \$1,000,000 jury verdict in an Internet libel case arising from defamatory statements about our client's business that were posted on a competitor's

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website. We also obtained injunctive relief from the Court barring future publications based on the jury's findings.

- Obtained outright dismissal of a medical products manufacturer client in a \$17200 unfair competition lawsuit alleging price-fixing and market manipulation by liquid nitrogen suppliers throughout California.
- Won summary judgment on behalf of a furniture manufacturer in a lawsuit by a San Diego retailer alleging Cartwright Act violations, unfair competition and illegal distribution agreement.
- Obtained a favorable resolution for an AM radio station in slander/unfair competition claims brought by an attorney accused of unethical representation of clients during a weekly talk show program.
- Successfully defended to judgment a class action claim brought by hundreds of consumers alleging property damage from a power surge caused by a transformer failure.
- Obtained multi-million dollar class action settlements against the entire rental car industry (Avis, Hertz, Dollar, National, Alamo and Thrifty) for failure to make required disclosures regarding the sale of collision damage waiver. In addition to damage relief, all car rental entities changed their sales practices.
- Obtained a multi-million dollar class action settlement against a national health club chain for overcharging and for discrimination based on beauty. In addition to damages, injunctive relief was also obtained.
- Successfully opposed an anti-SLAPP motion filed against our client in an attempt to thwart the client's lawsuit for damages arising from a business competitor's defamatory statements and unfair competitive conduct.
- Acted as lead trial counsel and won a defense verdict in a breach of contract, lender liability, fraud, unfair business practice lawsuit brought against a major financial institution by a well known developer/financier, upheld on appeal by the Court of Appeal.
- Obtained dismissal on behalf of a large automotive manufacturer's Mexican subsidiary corporation in claims alleging breach of contract and unfair business practices filed against it in California.
- Successfully defended and obtained dismissal of trade libel and defamation claims in U.S. District Court, Southern District of California, which were brought against a large financial institution by a business client.



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