



Michael F. Donner

Partner and San Francisco Market Leader

A litigator with a leading national reputation, Michael specializes in the disposition and resolution of challenging commercial disputes. His practice is broad and encompasses numerous subject matter areas, including real estate, land use, business, employment, trade secrets and restrictive covenants, unfair competition and false advertising, receiverships, professional liability and compliance, defamation, construction defects, and shareholder/partner/investor rights. Michael also regularly advises clients on non-litigation matters relevant to their businesses. He represents a diverse array of clients, ranging from Fortune 100 corporations to mid- and small-cap companies, partnerships, entrepreneurs, and high net-worth families.

American Lawyer Media named Michael one of the nation's "Top Rated Lawyers in Commercial Litigation" and one of the San Francisco Bay Area's "Top Rated Lawyers." Michael also was selected as a "Lawyer of Distinction" (a designation representing the top 10% of all litigation attorneys in the United States) and honored by Thompson Reuters as a Northern California "Super Lawyer." Martindale- Hubbell awarded him its highest professional rating of AV Preeminent®.

Michael has served three consecutive California Governors in their selection and appointment of state court judges as a member of the Judiciary Committee of the San Francisco Bar Association (2000-2004) and the Judicial Appointments Committee of the Los Angeles Bar Association (1995-2000). He is a frequent speaker and author on business and litigation issues and has served on the boards of several Bay Area non-profit and civic organizations.

Representative Work

Represented three defendants in multi-million dollar breach of contract action filed by Apple Inc. involving the recycling and destruction of iPhone and iPad devices. Successfully terminated the suit at the pleading stage and before the commencement of discovery based on a single motion to dismiss. Prevailed on motion to dismiss two defendants. Apple voluntary dismissed the third. Apple Inc. v. Allan & Associates Limited, et al, 5:19-cv-08372-EJD (N.D. Cal. 2020).

Represented real estate company and its principals in internet defamation action. Obtained affirmance from the First District Court of Appeal of trial court's order denying defendant's anti-SLAPP motion to plaintiffs' defamation claim. In its unanimous opinion, the appellate court

San Francisco

Hanson Bridgett LLP
425 Market Street, 26th Floor
San Francisco, CA 94105

415-995-5025 Direct Phone
415-995-3591 Fax

mddonner@hansonbridgett.com

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rejected defendant's arguments that anonymous Yelp postings were protected free speech and that his postings were not defamatory. *Bently Reserve, L.P. v. Papaliolios*, 218 Cal.App.4th 418 (2013). Employment Class Actions

Represented software company in unfair competition and false advertising class action. Obtained dismissal of proposed class action after court ruled plaintiff failed to adequately allege that anti-virus software erroneously reported computer errors and mislead consumers. *Bilodeau v. McAfee, Inc.* (N.D. Cal. June 24, 2013, Case No. 12-CV-04589-LHK).

Represented software company in two unfair competition and false advertising class actions. Obtained dismissal of California Consumer Legal Remedies Act claim, a matter of first impression for the court. *Ferrington v. McAfee, Inc.*, 2010 WL 3910169 (N.D. Cal. Oct. 5, 2010) (holding that software falls outside scope of California's Consumer Legal Remedies Act).

Represented manufacturer in action against multinational conglomerate for trade secret misappropriation, unfair competition, breach of contract, and fraud in the Sonoma County Superior Court. Manufacturer prevailed after jury trial.

Represented telecommunications company in action against competitor for unfair competition and breach of contract in the U.S. District Court for the Central District of California. Company prevailed after jury trial.

Represented investment bank in arbitration proceeding by former employee for wrongful termination, promissory fraud and breach of contract. Investment bank prevailed after arbitration merits hearing.

Represented multinational pharmaceutical company in action by former employee for wrongful termination and breach of contract in the U.S. District Court for the Central District of California. Obtained summary judgment in favor of company. Judgment upheld on appeal by U.S. Ninth Circuit Court of Appeals.

Represented well-known winemaker in connection with separation of his employment from multinational beverage corporation. Obtained favorable separation terms for client. Negotiations prompted revision of corporation's incentive compensation plans.

Represented former CEO of Fortune 500 company in dispute with corporate employer over termination. Resolved dispute on terms favorable to former CEO following negotiations resulting from single demand letter.

Represented homeowners in defect nondisclosure dispute with sellers and their design professionals. Settled the dispute prior to the filing of a lawsuit for over \$1,000,000.

Represented homeowner in action arising out of alleged undisclosed construction defects. Resolved dispute on terms favorable to homeowner with seller agreeing to underwrite the entire cost of repair.

Published Decisions

Bently Reserve, L.P. v. Papaliolios, 218 Cal.App.4th 418 (Cal.App.4th 2013)

Bilodeau v. McAfee, Inc. (N.D. Cal. 2013)

Ferrington v. McAfee, Inc., 2010 WL 3910169 (N.D. Cal. 2010)

Publications

- "Commercial Defamation Update: California Imposes New Hurdle on Ability to Ascertain Identity of Anonymous Internet Posters," *Business Litigation Law Alert* (August 2017)
- "CA Court Vacates Arbitration Decision Awarding Punitive Damages," *HB Briefly* (March 2017)
- "The Cost of Cutbacks in the California Courts," *Law360* (September 2011)
- "Whose Money Is It Anyway? The Fight Over Post-Default Real Property Rents Held In Landlord Operating Accounts," *California State Bar Real Property Journal*, Vol. 28, No. 4 (Spring 2011)
- "Five Ways Companies Can Prevent their California Employees from Handing their Secrets Over to Competitors," *Corporate Counsel* (October 2010)
- "Lessons from *Hewlett-Packard v. Mark Hurd*," *Law360* (October 2010)
- "Alternative Dispute Resolutions: Is ADR Really Faster, Better And Cheaper?" *ABA Real Property & Probate Journal*, Vol. 20, No. 3 (May/June 2006)
- "Litigation Avoidance 101: Thinking Through the Use of Boilerplate Contract Provisions," *ABA Real Property & Probate Journal*, Vol. 17, No. 3 (May/June 2003)

Presentations

- "Professional Insurance Tips for Property Managers," co-speaker, Professional Property Management Association of San Francisco (October 2017)
- "Real Estate Divorces: When Co-Ownership No Longer Works," co-speaker, Hanson Bridgett Seminar (December 2016)
- "Managing the Office of the Future and Demanding Tenants," moderator, IREM Asset & Property Management Symposium (September 2016)
- "Protecting Your Business Against Internet Defamation," co-speaker, Hanson Bridgett Seminar (August 2016)
- "What Every Practicing Lawyer Needs to Know," co-speaker, PLI Accounting for Lawyers Seminar (July 2016)
- "Structuring Your Partnership for Any Eventuality," Multifamily Technology and Entrepreneurship Conference (June 2016)
- "Escaping Wonderland: Businesses are Turning to Trade Secrets Protections in the Post-Alice World," co-speaker, USLAW Network Exchange (June 2016)
- "Trade Secret Litigation In California: Current Issues and Cutting Edge Strategies," co-speaker, Continuing Education of the Bar Program (May 2013)
- "Protecting Employer Assets (Trade Secrets) and Avoiding Unfair Competition Claims," co-speaker, Practising Law

Institute (March 2011)

"California Hiring and Firing Update: New Traps, New Laws," co-speaker, Practising Law Institute Program (March 2010)

"Common Litigation Tripwires: How Landlords and Tenants Can Improve their Leases and Avoid Disputes," co-speaker, ABA Real Property Section Meeting (Spring 2006)

"Is ADR Really Faster, Better and Cheaper?" co-speaker, ABA Real Property Spring Section Meeting (Spring 2005)

"I Can't Give It Away on Seventh Avenue: What Every Landlord and Tenant Needs to Know In Today's Retail Real Estate Market," ABA Real Property Section Spring Meeting (Spring 2003)

Press

"Blue Diamond files \$16 million lawsuit against Australian distribution partner," *Sacramento Business Journal* (October 2020)

Honors & Awards

Northern California Super Lawyers, Business Litigation (2014-2018)

Top Rated Lawyers in Commercial Litigation, American Lawyer Media

Lawyer of Distinction (a designation representing the top 10% of all litigation attorneys in the United States)

Martindale-Hubbell AV® Preeminent™

Professional Affiliations

San Francisco Bar Association Early Settlement Program Mediator (2010-2013)

American Bar Association, Litigation Committee of the Real Property Section Chair (2000-2005)

San Francisco Bar Association Judiciary Committee (2000-2004)

Los Angeles County Bar Association Judicial Appointments Committee (1995-2000)

California Bar Association

Education

J.D., University of California, Hastings College of the Law (1991)

M.S., Columbia University (1988)

A.B., Columbia University (1987)

Admissions and Courts

California

U.S. Court of Appeals for the Ninth Circuit

U.S. District Court for the Northern District of California

U.S. District Court for the Central District of California

U.S. District Court for the Eastern District of California

U.S. District Court for the Southern District of California