

## Oliver Q. Dunlap



### Contact

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### Education

LLM Coursework, University College London, England, 2002

University of Texas, School of Law, Austin, J.D., 2002

Georgetown University, Washington, D.C., B.S.F.S., 1995

Kings College, University of London, England

McGhee Center for Eastern Mediterranean Studies, Alanya, Turkey

### Professional Affiliations

Judicial Council & Chief Justice's Code of Civil Procedure Section 367.9 Working Group: Civil & Criminal Remote Proceedings Trial Counsel Representative (2021 to Present)

Bench Bar Coalition: Northern California Member at Large and Executive Committee (2021 to Present)

Conference of California Bar Associations (CCBA): Chair (2021), Executive Board (2016 to Present)

California Judges Association, Judicial Fairness Coalition: Member & Executive Board; Student Ethics & Wellness Workshop: Leader & Trainer

California Bar Association: Special Committee for Administration of Justice, Electronic Access Working Group, and California Commission on Access to Justice; Litigation Section, Standing Committee on Jury Instructions

### Practice Areas

Business Litigation (including Antitrust, Health Care, & Complex Commercial)

Class Action Litigation

Enforcement and Data Privacy

Intellectual Property Litigation

Internal Investigations, White Collar, & Securities

International Human Rights and Alien Tort Statute

Pharmaceutical & Medical Device Products Liability

Toxic Tort & Environmental Law (including Prop 65)

Trade Secret Litigation

Wine Law

### Experience

Oliver Dunlap is a Principal of the firm. He is a civil litigator with extensive experience in a broad range of complex matters, including work with clients in the life sciences, healthcare, technology, financial services, and energy and resources industries. He has successfully litigated matters involving class actions, antitrust, mass torts, complex commercial disputes, products liability, business litigation, intellectual property, toxic torts and environmental defense, securities and internal investigations, international human and civil rights, and wine law. Oliver regularly represents Fortune 500 and 1000 companies and industry leaders, as well as mid-sized corporations and start-ups, always with an eye to both his clients' litigation and business goals.

Prior to joining the firm, Oliver was a senior attorney at King & Spalding and an associate at Morrison & Foerster. He also served with the Office of the Prosecutor at the Yugoslavia and Rwanda War Crimes Tribunal. He has significant state and federal court trial experience (including with remote proceedings), has become a leader in the area of sealing and use of confidential documents, and has led multi-firm and office teams in international complex litigation – be it for litigation and trial, or in responding to major state and federal government investigations. He actively participates in community organizations, state bar and pro bono work, and professional diversity and training initiatives. He was recently asked by the California Supreme Court to be one of three trial attorneys to participate in the Judicial Council's Section 367.9 Working Group on Civil & Criminal Remote Proceedings, and he serves on the Board of Directors for various youth services not-for-profits, the Conference of California Bar Associations, the Bench Bar Coalition, and various CJA committees and state and local bar groups.

## Professional Affiliations [Cont.]

State Bar Diversity and Minority Attorney Mentorship Program; Leadership Council's Legal Diversity Initiative (2013 to 2016)

American Health Law Association (2020 to Present)

Bar Association of San Francisco: Conference of California Bar Associations (Executive Committee, Chair and Delegate)

Alameda County Bar Association: Intellectual Property Steering Committee (2010 to 2013)

Earl Warren Inn of Court: Best Program (2010), Best Male Lead (2012)

TREC 2009 Legal Track: Topic Authority and e-Discovery analyst

Alumnus, Appellate Division of the office of Prosecutor for the International Criminal Tribunal for the Former Yugoslavia and International Criminal Tribunal for Rwanda

JCYC Board of Directors (Nonprofit Youth & Family Services): Secretary (2004 to Present)

## Bar Admissions

California State Bar, 2003

United States Supreme Court

United States Court of Appeals for the Ninth Circuit, 2003

United States District Court for the Northern District of California, 2003

United States District Court for the Eastern District of California, 2011

United States District Court for the Southern District of California, 2011

United States District Court for the Central District of California, 2011

United States District Court for the District of Idaho, 2007

## Honors

United Way Baby KoKo Awards (2014, 2015)

Northern California Rising Star – Class Action/Mass Torts (2013)

California Lawyer Magazine, Angel Award (2008)

Wiley W. Manuel Award for Pro Bono Legal Services (2005, 2008, 2009)

## Representative Cases

### ANTITRUST

In recent federal class action antitrust litigation, Mr. Dunlap led trial operations and the coordination of a multi-firm team for a large healthcare provider, ultimately obtaining a complete defense verdict for our client in a multibillion dollar case, following a decade of litigation and months of trial. The case involved complex and cutting edge antitrust theories, hundreds of witnesses and experts, and extensive confidential information from most major players in the California healthcare and insurance industry. Mr. Dunlap handled expansive and intense sealing issues related to both documents and depositions, both in pretrial motions and discovery, as well as in the design and implementation of a novel pandemic set-up for the hybrid trial proceedings and testimony.

### HEALTHCARE LITIGATION

In addition to work on antitrust matters, Mr. Dunlap also serves as counsel to healthcare providers and systems throughout California, assisting in successful arbitrations, litigation, and trials concerning contracting practices, employment and whistleblower complaints, privacy and data breaches, and billing and contract disputes. He has obtained numerous favorable decisions and settlements for clients in these matters, against both insurers and government entities.

### CLASS ACTIONS

Mr. Dunlap has represented clients in the IT, medical device, pharmaceutical, news, and healthcare industries in both state and federal court class actions, as well as in similar JPML or JCCP coordinated proceedings. His work for these clients in all phases of the proceedings – discovery, pretrial motions, trial representation, and settlement negotiations – has resulted in numerous successful dispositive rulings and favorable settlements.

### COMMERCIAL LITIGATION

Mr. Dunlap serves as counsel for domestic and international technology, life sciences, healthcare, financial services, food & wine, design, e-commerce, retail and energy companies in complex litigation and business disputes. He has successfully litigated issues involving sales contracts, contractor and employment agreements, stock option grants, fraud, tort and tortious interference, licensing and marketing contracts, pricing and accounting disputes, non-disclosure agreements, tax matters, and importation and antitrust issues in state and federal courts. He also guides clients to effectively mitigate risk pre- and post-litigation, and provides strategic guidance on compliance with federal and state regulations – including privacy, data security and e-discovery regimes – writs of attachment, claims for equitable and injunctive relief, and California's Unfair Business Practices Code (§ 17200).

At a recent trial in Santa Clara County Superior Court, following successful cross-examinations of key plaintiff witnesses, Mr. Dunlap argued Motion for Judgment that resulted in complete defense victory at close of plaintiff's case. The four-and-a-half year, highly contentious contract and tort litigation concerned allegations regarding the sale of defendant's products throughout Asia, and the company's acquisition of a Swedish software company. The case involved supervising and coordinating electronic files, witnesses and other work with offices in Colorado, Sweden, Idaho, Malaysia, Hong Kong, Singapore, Seoul and California.

Mr. Dunlap negotiated settlement for a major accounting firm in civil suit related to off-shore tax strategies, following IRS litigation with a plaintiff who had engaged firm's services. He also resolved individual and class claims brought in California courts against a reporting agency concerning personal credit reports and vendor double reporting.

## Presentations

"Ethics & Wellness in Law" Zoom Training and Workshop for Law Students (2020 to Present)

"The Crown Act: Leaning, Understanding & Honoring" Zoom Webinar (2021)

CCBA and State Bar CLE Conference: "Respecting Diversity in the Realm of Privacy and Data Security" (October 2017)

Pharma U, "Genomes, Consent, and Courtrooms: Navigating the Legal and Ethical Challenges Related to Uses of Clinical Trial Biospecimens and Data" (Pharmaceutical University, 2015)

King & Spalding e-Learn: "Picking Fora: Trends in the Art of Removal"

Discovery: Techniques, Strategies, Plans and Pitfalls in Complex Litigation (BALSF workshop)

Complex Litigation – Discovery and Case Management (BALSF workshop)

Building Your E-Discovery Tool Kit: Nuts & Bolts Issues Corporate Counsel Need to Know (Client workshop)

## Publications

Bar Association of San Francisco Bulletin, "Laws & the Lawyers (You Never Heard of) that Make Them" (September 2016)

California Lawyer and Daily Journal, "New Rules for Litigators: 2016 Brings Significant Changes to the California Code of Civil Procedure" (February 2016)

Senate Bills 75 (enacted June 27, 2013) and 852 (enacted June 20, 2014); authored successful CCBA legislation to increase State Court budgets

Bar Association of San Francisco Bulletin, "California's Court Funding Crisis" (January 2012)

Bar Association of San Francisco Bulletin, "Conference of California Bar Associations 2011, Long Beach: Take that Otto" (November 2011)

Bar Association of San Francisco Bulletin, "Conference of Delegates" (April 2009)

San Francisco Attorney Magazine, "Attorney Lifestyle" articles (Spring 2004 and Summer 2005)

## Representative Cases [Continued]

### MASS TORT & LIFE SCIENCES

Mr. Dunlap represents leading pharmaceutical manufacturers in product liability, off-label marketing and pricing disputes brought in state and federal courts. He has removed, litigated and resolved mass claims related to statins, diabetes, anti-psychotic and acid-reflux drugs, obtaining early dismissal or settlement in most cases.

Mr. Dunlap also coordinates MDL and JCCP proceedings for large-scale litigation, and has managed related removal proceedings and dockets for local distributors and medical device manufacturers. Throughout, he preserves patient privacy and confidentiality in the litigation process, including compliance with HIPAA and related regulations. He has overseen settlement and dismissal of resolved cases in concurrent state and federal courts, including management of MSP and MMSEA issues, and related claims administration.

Mr. Dunlap was lead counsel in California and Idaho medical board reviews of licensed medical and mental health professionals, based upon services provided to inmates in Idaho and California state prisons. He obtained an opinion reversal by opposing counsel's lead expert following deposition and initial review of expert reports in the case. He also provided deposition and trial testimony counsel to state hospital employees in civil and criminal lawsuits. Mr. Dunlap is a regular presenter and participant in industry-wide pharmaceutical and medical device conferences.

### TOXIC TORT & ENVIRONMENTAL

Mr. Dunlap successfully opposed a Notice of Violation under California Proposition 65 for a leading, global petrochemical company, and negotiated withdrawal of the Notice without the need for formal litigation.

He also serves as counsel for chemical manufacturers in cases involving claims by private and public entities related to alleged groundwater contamination, for petro-chemical companies in cases involving airborne emissions, and for high-tech companies in EPA superfund actions. In this work he has successfully brought motions to disqualify experts, dismiss claims and limit damages based upon deposition testimony and IMEs.

Mr. Dunlap manages litigation for a variety of fortune 1000 companies in products liability and premises claims stemming from alleged exposure to legacy asbestos-containing products; including negotiation of early dismissal, successful filing for summary judgment, and preparation for and successful litigation of cases at trial.

### INTELLECTUAL PROPERTY

Mr. Dunlap represents leading high-technology, electronics and life-science corporations in patent infringement, trade secret, and design patent, trade dress and trade mark litigation before U.S. District Courts, the Federal Circuit, I.T.C., U.S.P.T.O. and various international bodies. As local counsel Mr. Dunlap has assisted in coordinating massive international patent litigation in the social networking, software, lithography, smart card and pharmaceuticals industries. He also has acted as lead counsel in more discrete matters for leading retailers and foreign manufacturers, frequently negotiating early resolutions to matters for his clients. He has negotiated early resolutions and settlement agreements in matters for leading retailers, designers and foreign manufacturers.

Mr. Dunlap advises commercial design, energy, food production and e-commerce businesses in securing, protecting and monetizing their intellectual property, including trademark, copyright, trade dress, design patent and trade secret protection, and he has appeared and litigated before the ITC, Federal Circuit, District Court for the District of Columbia, and Northern District of California.

## Representative Cases [ Continued ]

### *INTERNAL INVESTIGATIONS AND SECURITIES*

Mr. Dunlap provides counseling for Fortune 500 companies concerning state and federal regulatory regimes, and in connection with both formal and informal government investigations. He has created and implemented compliance best practices, privacy, data security and e-discovery guidelines for clients, and his CIPP certification is pending. He has presented to corporate governance bodies and negotiated with DOJ, DOT, DHHS, FTC, FERC, SEC and other governmental agencies. He guides clients to effectively mitigate litigation risk and corporate compliance issues, and provides strategic guidance and representation in state and federal courts, and before government agencies and international tribunals.

Mr. Dunlap has led internal investigations related to AG investigations of the insurance industry, auto manufacturers and backdating allegations, SEC investigations of insider trading claims, and private party actions for securities law violations. He has also managed internal investigations and electronic discovery related to product liability, marketing and pricing matters for financial services, tech, life sciences and energy clients.

### *INTERNATIONAL HUMAN RIGHTS – ALIEN TORT STATUTE*

Mr. Dunlap served with the United Nations' Office of the Prosecutor for the Yugoslavia and Rwanda War Crimes Tribunal. He has litigated issues of individual and corporate liability for violations of international law through his work with the United Nations and various NGOs.

Mr. Dunlap has defended extraction companies in Alien Tort Statute actions brought by foreign plaintiffs and governmental entities. He has litigated issues of individual and corporate liability for violations of international law, and jus cogens norms applicable under the statute.

He also has obtained fees, damages and injunctive relief in civil rights lawsuit on behalf of transgendered state prison inmates, and in FOIA litigation related to immigrant communities, and he has represented San Francisco and Alameda county underserved in various pro bono matters.

### *FOOD & WINE INDUSTRY*

Mr. Dunlap represents collectors, auction houses and vendors in efforts to address sales of counterfeit old and rare wines. He successfully resolved a multi-million dollar dispute, traced known fakes to their sources, and assisted in local and federal law enforcement investigation of the industry.

Mr. Dunlap has negotiated settlement of marketing and sales contract dispute between a major wine and spirits producer and its former US importer and business partner, including conducting related investigations of South American production facilities and holdings.

Mr. Dunlap has also provided regulatory guidance to a leading California nut and snack manufacturer.