



Matthew G. Ball

Partner

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OVERVIEW

Matt Ball is a litigation partner and business trial lawyer in K&L Gates' San Francisco office. He focuses on class action defense and strategic commercial litigation for consumer-focused industries, such as homebuilders, consumer financial services, as well as makers of food, dietary supplements, and homeopathic remedies, among other consumer products. He also represents employers in wage and hour class actions, and plaintiffs and defendants in complex commercial and intellectual property litigation.

At times “strategic litigation” means finding the “silver bullet” argument that leads to a win on summary judgment, or to the defeat of class certification, or persuading the other side that a favorable settlement is in their best interests. Other times, when necessary, it means trying a case successfully to verdict. Matt has extensive experience resolving all types of legal issues in federal and state courts, as well as in alternative dispute resolution settings.

Matt has been named to the Northern California Super Lawyers list from 2010 to 2023, and has been peer rated in the Martindale Hubbell directory as AV® Preeminent™, the highest rating in ethical standards and legal ability.

PROFESSIONAL BACKGROUND

Matt served as judicial clerk for the Hon. Robert E. Coyle, U.S. District Judge for the Eastern District of California, from 1997 to 1998.

ACHIEVEMENTS

- Recognized in California Super Lawyers list for Class Actions/Mass Torts (2010-2023)

PROFESSIONAL / CIVIC ACTIVITIES

- 2021 Food Advertising, Labeling, and Litigation Conference Planning Committee, Food and Drug Law Institute (FDLI)

SPEAKING ENGAGEMENTS

- Presenter, “Things a California Consumer Class Action Defense Lawyer Would Like to Tell You About Food Law and Especially Litigation in 2020,” American Agricultural Law Association Symposium (November 2020)
- Speaker, “Grocery Manufacturers’ Association Conference,” Palm Beach, FL (March 2019)
- Panelist, “Food Science in the Law: The Changing Landscape of Food and Beverage Labeling and Safety Issues,” (November 2015)
- Presenter, “What You Need to Know About Defending Cyber Related Class Action Litigations” (January 2015)
- “Preventative Medicine: Limiting Your Exposure to the Consumer Protection Lawsuit Before It Happens,” *A Roundtable Discussion for the Dietary Supplements Industry*
- “Private Attorney General Actions Under California’s Unfair Competition Law: What Every Lawyer Should Know”
- “Expert Witnesses: How to Help Attorneys Get the Most Out of Your Retention, Credibility Pitfalls”

EDUCATION

- J.D., University of California Hastings College of the Law, 1997 (*magna cum laude*; *Thurston Society*; *Order of the Coif*)
- B.S., University of California at Los Angeles (UCLA), 1992 (*magna cum laude*; *Phi Beta Kappa*)

ADMISSIONS

- Bar of California
- United States Court of Appeals for the Ninth Circuit
- United States Court of Appeals for the Third Circuit
- United States District Court for the Central District of California
- United States District Court for the Eastern District of California
- United States District Court for the Northern District of California
- United States District Court for the Southern District of California
- United States District Court for the Western District of Pennsylvania

THOUGHT LEADERSHIP POWERED BY HUB

- 2 May 2023, Litigation Minute: California Session Replay Litigation Update

- 20 September 2022, Kind, LLC Wins a Decisive Victory in an "All Natural" Case When Plaintiffs Failed to Prove That Reasonable Consumers Had a Specific Understanding of "All Natural" That Rendered Kind's Labels Misleading
- 3 May 2022, Litigation Minute: Defending Consumer Class Action Claims Involving PFAS
- 26 April 2022, Litigation Minute: The Coming Wave of PFAS Litigation
- 19 April 2022, Litigation Minute: New Bioengineered Food Disclosure Rules and Litigation Risks
- 12 April 2022, Litigation Minute: Companies Selling Products in California Must Justify Environmental Marketing Claims
- 16 July 2021, Litigation Minute: What to Do When Your Company is Threatened with a Consumer Class Action
- April 2021, April 2021 Accolades
- June 2019, Global Supply, Global Risk: How To Manage Supply Chain Risks In A Globalized Food Industry
- 7 December 2015, *Quesada v. Herb Thyme Farms, Inc.* The California Supreme Court Opens Up a New Front in the Food Wars

OTHER PUBLICATIONS

- "Privacy Ruling Highlights Risks Of Third-Party Web Tracking," *Law360*, 22 November 2022
- Co-edited the treatise, "Defense of Class Action Litigation in Federal Court," with R. Bruce Allensworth, Andrew C. Glass, and Todd L. Nunn (Bloomberg Law 2018). Co-Authored chapters on Class Member Investigations and Communications, and Appeal
- "Why False Advertising Claims Need To Be More Specific," *Law360*, December 4, 2015
- "Comcast Demands A Working Damages Model From Plaintiffs," *Law360*, September 14, 2015
- "Construction workers' suit knocked down", *The Recorder*, April 6, 2010. The article describes a summary judgment victory on behalf of Toll Bros., Inc. against a putative class of framers who had sued Toll under Section 2810 of the California Labor Code.
- Co-edited the 50-state treatise, "State Class Actions: Practice and Procedure," with Todd L. Nunn and Irene C. Freidel (Wolters Kluwer 2010). Co-authored the California chapter of that treatise.
- "Unfair Competition Law Update: A look at 2005," *Civil Litigation Reporter*, April 2006
- "Low-Carb Lawsuits, California litigation risks await America's newest diet craze," *Nutritional Outlook*, September 2004
- "Three New Cases Assist with Defense of Section 17200 Suits," *San Francisco Daily Journal*, April 15, 2003

AREAS OF FOCUS

- Commercial Disputes
- Class Action Litigation Defense
- IP Litigation
- Payments, Banking Regulation, and Consumer Financial Services

INDUSTRIES

- Consumer Products
- Food and Beverage

REPRESENTATIVE EXPERIENCE

- Representing a digital learning platform in multiple class actions in California and Florida regarding alleged violation of the Florida Telephone Solicitation Act (FTSA).
- Won two federal class actions alleging that leading maker of sparkling water falsely advertised its products as "natural" when they were synthetic. Both class actions resulted in dismissals with no compensation for the plaintiffs or plaintiffs' law firms, and one plaintiff's law firm issued a written retraction of the allegations.
- Lead counsel in high-stakes, "bet the company" trade secret matter. Won summary judgment in federal court after removing the case from state court 30 days before trial.
- Lead counsel in federal jury trial; obtained a plaintiff's verdict for a financial services firm alleging nonpayment of service fees.
- Part of three-person trial team that obtained a defense verdict in a complex state-court commercial trial lasting more than four months where plaintiff claimed damages in the nine figures.
- Defeated 97% of plaintiff's damage claims as part of a three-person trial team in federal jury trial alleging breach of contract to pay finder's fee.
- Obtained finding of no liability on behalf of large industrial manufacturer as part of a four-person trial team in state court bench trial lasting more than six months where plaintiff sought a joint and several award of damages exceeding \$150 million for alleged groundwater contamination.
- Won state-law class action for maker and seller of smoothie beverage product; case alleged that product labeling was misleading because product did not contain fruits pictured on the label, but only natural flavorings; case dismissed with prejudice with motion to dismiss on FDA preemption grounds pending.
- Won motion to dismiss in securities fraud lawsuit after successfully asserting preemption and removing matter to federal court.

- Won motion to dismiss with prejudice on “reasonable consumer” standard in case alleging that snack food product was not “natural” because it contained GMOs and alleged artificial ingredients.
- Won summary judgment in class action alleging violations of Labor Code Section 2810; settled favorably after appeal.
- Lead counsel in trade secrets matter involving cutting-edge semiconductor technology. Won summary judgment for defendant, and then prevailed in a subsequent attorneys fees proceeding against the plaintiff and won a substantial award for the defendant.
- Obtained walk-away settlement with no financial compensation for plaintiff in trade secrets case brought against maker of dental practice management software.
- Unraveled a complex land fraud scheme on behalf of German bank leading to a large settlement from the defendants
- Favorably settled consumer class action on behalf of leading consumer product company accused of violating California consumer statutes regulating "buy one get one" offers.
- Settled putative class action on a favorable, non-class basis on behalf of game console and game manufacturer after motion to dismiss filed.
- Favorably settled consumer class action on behalf of maker and seller of homeopathic products.
- Favorably settled consumer class action on behalf of leading retailer of high-end cooking products.
- Obtained favorable settlement for the Board of Directors of a large timeshare organization in complex derivative lawsuit.