



David M. Fox Senior Associate

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Practice Areas

Appellate & Writ Practice | Complex Business Litigation | Construction Litigation | Disability Access | Employment Litigation | Insurance | Intellectual Property Litigation

Dave Fox is an experienced litigator who focuses on a wide range of complex business and commercial disputes.

Dave has extensive experience litigating breach of contract actions, shareholder disputes, employment claims, intellectual property disputes, and business torts. Blending sharp advocacy with creative thinking, Dave has litigated cases and advanced the interests of his clients through trial and appeal in state and federal courts, as well as before arbitration panels on both the west and east coasts. Dave has guided Fortune 500 companies, small-to-mid sized businesses, and individuals in numerous industries through all stages of litigation.

Experience

- Successfully briefed and argued claim for retaliation under the First Amendment of the United States Constitution before the Ninth Circuit Court of Appeals.
- Argued and defeated motion for summary adjudication on breach of contract claim on behalf of general engineering contractor.
- Represented majority shareholder in complex management and business tort dispute.
- Assisted in obtaining partial summary judgment on behalf of estates in a shareholder dispute, affirming their ownership interests in large automobile dealership chain and in successfully opposing summary judgment on issues related to the estates' entitlement to key-man life insurance proceeds. Assisted in drafting successful interlocutory appellate brief before the Supreme Judicial Court of Massachusetts, 464 Mass. 205 (2013), concerning the application of the at-issue waiver exception to the attorney-client privilege. The action settled shortly before trial on highly favorable terms for the clients.
- Assisted in obtaining judgment on the pleadings on behalf of a national pharmacy chain in complex litigation concerning contractual issues surrounding the implementation of hosted data solution before the Business Litigation Session of the Massachusetts Superior Court.
- Represented national chain of long-term care facilities in contract and business tort dispute with hosted data provider. Prepared successful opposition to motion to dismiss on a tight timeframe after taking over

case from prior counsel.

- Represented coffee packaging startup in action for breach of contract and fraud, and successfully obtained judgment for the full amount sought plus attorneys' fees.
- Assisted in defending owner and operator of four-star hotel in ADA Title III litigation filed by serial litigant, which resulted in a dismissal of the majority of claims brought by plaintiff at trial. The case settled on terms favorable to client prior to appeal.
- Represented Fortune 500 company in employment litigation involving claims under Title VII.
- Defended biotechnology startup in employment litigation against former executive, which settled on favorable terms for the client.
- Represented Fortune 500 executive in arbitration hearing over entitlement to severance benefits after change-in-control, which resulted in award of attorneys' fees to client.
- Represented apparel company in litigation involving trademark infringement, RICO, business tort, and contract claims.
- Represented small telecommunications company in multi-district patent litigation, and drafted successful briefing before the Judicial Panel on Multidistrict Litigation that set the standard for pre-trial consolidation of patent infringement actions in multidistrict litigation after the America Invents Act, 858 F. Supp. 2d 1375 (2012).
- Represented startup in patent and unfair competition litigation concerning screen protectors on smartphones, tablets, and laptops. The action settled on favorable terms for the client.

Professional & Community Service

- Sacramento County Bar Association, Civil Litigation Section
- Federal Bar Association, Membership Chair
- Sacramento Metro EDGE, Former Member
- Runnin' for Rhett, Board of Directors, 2018
- Folsom Leading Young Professionals
- Folsom Chamber of Commerce
- California State Bar Association
- New York State Bar Association
- Massachusetts State Bar Association
- *Boston College International & Comparative Law Review*, Note Editor, 2009-2010
- *Boston College International & Comparative Law Review*, Staff Writer, 2008-2009

Education

- J.D., Boston College Law School, 2010
- B.A., *cum laude*, DePauw University, 2005

Publications

- *Big Changes in California Sexual Harassment Law*, California Grocer, Issue 4 , September 2019
- *The “Wild West” of ADA Website Litigation*, California Grocer, Issue 4, October 2017
- *Halting Urban Sprawl: Smart Growth in Vancouver and Seattle*, Boston College International & Comparative Law Review, 33 B.C. Int'l & Comp. L. Rev. 43, Winter 2010