



## **BENJAMIN W. CLEMENTS**

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### **BIOGRAPHY**

Benjamin Clements is an associate in TroyGould's Litigation Department. His practice focuses on business and commercial litigation, including defending consumer class actions, data breach and wire fraud issues, allegations of breach of contract and unfair competition, and consumer finance litigation. He enjoys thinking creatively and working collaboratively to solve complex problems, and has experienced success drafting dispositive motions and briefs at the trial and appellate levels in both state and federal courts.

Before TroyGould, Mr. Clements was an associate with an AmLaw 100 firm and a law clerk to two judges of the Los Angeles Superior Court, the Hon. Stephanie Bowick and the Hon. Marc Marmaro (Ret.). In law school, he was an editor of the Loyola of Los Angeles Law Review and served as a judicial extern to the Hon. Dean Pregerson of the U.S. District Court for the Central District of California.

### **REPRESENTATIVE MATTERS**

- Represented beverage companies in a putative class action alleging false advertising and violations of state consumer protection laws—obtained dismissal of claims based on California law (e.g., Consumer Legal Remedies Act, Unfair Competition Law) by arguing the presumption against extraterritorial application of California law and raising due process concerns; successfully excluded plaintiff's expert and opposed plaintiff's motion to exclude the client's expert.
- Represented a financial institution in wire fraud action arising out of an e-mail compromise scheme—successfully demurred to complaint by arguing the California Uniform Commercial Code displaced plaintiffs' common-law claims; a favorable settlement was obtained at mediation.
- Represented the seller of commercial equipment in an action for breach of contract and breach of warranty—successfully opposed motion to dismiss by arguing forum-selection clause in purchase order was not a term of the parties' agreement because there was no evidence the client consented to the forum-selection clause and the clause was a "material alteration" under the Uniform Commercial Code's battle-of-the-forms rule.
- Represented a lender and loan servicer in an action alleging mortgage fraud and wrongful foreclosure—successfully removed case to federal court by arguing diversity jurisdiction existed under *Americold Realty Trust v. ConAgra Foods, Inc.*, 577 U.S. \_\_\_, 136 S. Ct. 1012 (2016), because the citizenship of the defendant entity (a real estate mortgage investment conduit) was based on the citizenship of the trustee, not the trust's members; obtained dismissal of entire case via a motion to dismiss pursuant to FRCP 12(b)(6).
- Obtained a favorable opinion from the U.S. Court of Appeals for the Ninth Circuit affirming summary judgment in favor of bank and loan servicer.
- Represented a product manufacturer in complying with California's Proposition 65 requirements for product warning labels.

### **PUBLICATIONS**

Comment, *Departing from Seminole Rock Deference: In Decker a Shift in Tide*, 47 Loy. L.A. L. Rev. 539 (2014)

### **BACKGROUND**

### **EDUCATION**



Bucknell University (B.A., Economics and French, 2010)  
Loyola Law School, Los Angeles (J.D., 2014)