TroyGould ATTORNEYS



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BIOGRAPHY

Benjamin Clements is a Member of TroyGould's Litigation Department. He specializes in complex business and intellectual property litigation, including disputes that involve business divorces, franchise and dealer relationships, trademarks, and trade secrets, among other things. Although he frequently litigates matters through trial or appellate proceedings, he works collaboratively with his clients to solve their problems in an efficient and cost-effective manner.

Mr. Clements has an impressive track record of representing clients on both the plaintiff and defense side across a wide range of industries. A few examples include securing a multi-million-dollar arbitration award in a complex breach of contract dispute between a window retailer and a window manufacturer; obtaining dismissal of trademark infringement actions for a software company; winning summary judgment for a restaurant franchisor in an action filed by multiple franchisees; and attaining a favorable settlement for a restaurant business accused by a competitor of stealing recipes.

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 (Ret.) 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 (Ret.) of the U.S. District Court for the Central District of California.

REPRESENTATIVE MATTERS

Trade Secrets and Unfair Competition

- Represented a restaurant business in litigation brought by a competitor alleging false advertising, false designation of origin, trade dress infringement, and trade secret misappropriation—after the court partially granted our 12(b)(6) motion to dismiss the false advertising claims, portions of the false designation of origin claim, and portions of the trade secret misappropriation claims, and after the court partially granted our motion to compel the competitor to provide more detail in its trade secret disclosure, we obtained a favorable settlement at mediation.
- Represented employees accused by their former employer of stealing confidential and proprietary business information and violating California's Comprehensive Computer Data Access and Fraud Act—obtained a favorable settlement involving no payment of money.
- Represented beverage companies in a class action in federal court 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), successfully excluded the plaintiff's expert and successfully opposed the plaintiff's motion to exclude the client's expert.

Franchise and Dealer Litigation

- Represented a retailer in a two-week arbitration against a national manufacturer, bringing claims for wrongful termination of the distribution agreements under breach of contract and disguised franchise theories—obtained a multi-million-dollar final award for the client.
- Represented a franchisor of a popular restaurant chain against franchisees in federal court—obtained summary judgment of franchisees' counterclaims for alleged violations of the California Franchise Investment Law ("CFIL"), unfair competition, fraud, and unjust enrichment on the ground that the franchisor was exempt

from the CFIL's registration requirement and the CFIL preempted the remaining counterclaims.

General Business Disputes

- Represented a software company in trademark infringement actions in federal court—obtained dismissal of both lawsuits by successfully moving to dismiss for lack of personal jurisdiction.
- Represented business owners facing significant personal liability under the alter ego doctrine for alleged breach of contract—after the court granted our motion for judgment on the pleadings as to nearly all the plaintiff's causes of action, we obtained a favorable settlement shortly before trial.
- Represented a financial institution in a wire fraud action arising out of an e-mail compromise scheme—successfully demurred to the complaint by arguing the California Uniform Commercial Code displaced the plaintiffs' common-law claims and obtained a favorable settlement at mediation.
- Represented the seller of commercial equipment in an action for breach of contract and breach of warranty—successfully opposed the manufacturer's motion to dismiss by arguing the forum-selection clause in a 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 producer of CBD-infused beverages in an action against a bottling manufacturer for breach of contract and breach of warranty.

Employment Disputes and Counseling

- Represented a real estate company in an action by a former employee alleging retaliation and unlawful termination under California's whistleblower statute and Fair Employment and Housing Act based on the alleged conduct of a supervisor—after multiple demurrers, obtained dismissal of the lawsuit at the pleading stage.
- Represented a restaurant business in a class action filed by former employees in federal court for alleged violations of California's wage-and-hour laws—persuaded plaintiffs' counsel to voluntarily dismiss the lawsuit and obtained a favorable settlement outside of court.
- Counsels employers on requests by former employees for payroll records and personnel files.

Mortgage Banking Litigation

- Represented a lender and loan servicer in an action alleging mortgage fraud and wrongful foreclosure—removed the case to federal court and obtained dismissal of the lawsuit 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 a bank and loan servicer.

PUBLICATIONS

Co-Author, "Personal Liability for Franchise Sellers," Franchise Law Journal, Volume 43, Number 4, Fall 2024

December 2024: Client Alert: The Ongoing Uncertainty of Federal Non-Compete Regulation
Author, "From the Benevolence of the Butcher: Motive and Contractual Right to Terminate," The Franchise Lawyer (Summer 2022)

Author, "Appellate Courts Split on Indemnity Claims and Anti-SLAPP," Los Angeles Daily Journal (January 2, 2020)

Author, "UCC Section 4A-207(b) in the Age of Cybercrime," 136 The Banking Law Journal 302 (LexisNexis A.S. Pratt June 2019)

Co-Author, "Guest Post: Allocation of Defense Costs in D&O Litigation," The D&O Diary, April 29, 2019

Comment, "Departing From Seminole Rock Deference: In Decker, A Shift In Tide," 47 Loy. L.A. L. Rev. 539 (2014)

BACKGROUND

TroyGould
ATTORNEYS

EDUCATION

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

Accolades & Affiliations

Mentor, Bucknell University, Public Interest Program
Member, American Bar Association, Forum on Franchising