



Marc D. Alexander

Of Counsel

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Practices & Industries

- Litigation

Overview

Marc Alexander helps companies and individuals find cost-effective and satisfactory resolutions to a broad range of complex business disputes.

After more than 35 years litigating civil business matters, Marc mediates conflict with a steadfast conviction that negotiation, patience, and persistence lead to positive outcomes in even the most challenging disputes.

He sits on the mediation panels of the United States District Court, Central District, and the Orange County Superior Court, and has particular strengths with intellectual property cases, employment issues – including wage and hour disputes and claims of harassment and wrongful termination – and matters involving borrowers and lenders and financial institutions. He has also written about, litigated, and mediated attorney fee disputes.

Marc's litigation work spans bench and jury trials, binding arbitrations, judicial references, and appellate work in state and federal courts in California, where he has helped clients resolve real estate, unfair competition, non-compete and non-solicitation, partnership and corporate, securities defense, intellectual property, and other disputes.

Before entering private practice, Marc clerked for the Hon. Warren J. Ferguson on the Ninth Circuit Court of Appeals.

Memberships

- Member, Orange County Bar Association
- Past Chair, ADL, Orange County
- Vice Chair, ADR section of the Orange County Bar
- Member, Alternative Dispute Resolution Committee of the Litigation Section of the California Lawyers Association

Education / Admissions

Education:

- J.D., University of California, Los Angeles, 1981
- Ph.D. & M.A., History, Johns Hopkins (1976 and 1974)
- B.A., with honors, Politics, UCSC, 1972

Bar Admissions:

- State Bar of California

Mediation:

- U.S. District Court for the Central District of California
- Orange County Superior Court

Court Admissions:

- U.S. Supreme Court
- U.S. Court of Appeals for the Ninth Circuit
- U.S. District Court for the Northern District of California
- U.S. District Court for the Southern District of California
- U.S. District Court for the Central District of California

Accolades

- Author of *California Mediation and Arbitration*, a legal blog
- Co-contributor to *California Attorney's Fees*, a legal blog with authored with co-contributor W. Michael Hensley
- Honoree on ABA Journal Blawg 100, 2012, for work on California Attorney's Fees
- Phi Beta Kappa
- Editor, California Litigation, The Journal of The California Lawyers Association

Matters

In addition to his work on a broad range of confidential mediation disputes, recent representative litigation includes:

- Representation of agent and real estate company in the appeal of a lawsuit brought by an employee seeking to recover attorney's fees paid in connection with an employment dispute, a claim that was denied by Superior Court after jury trial. The Court of Appeal in *Martinez v. O'Hara* (CA Ct. App. 2019) affirmed that decision, and in addition referred opposing counsel to State Bar for misconduct.
- Representation of a California hairdressing college sued by its students-in-training, who claimed that they should be paid as employees for their time spent learning the trade. On summary judgment, the United States District Court held that the students were not employees and as such were not entitled to compensation. *Ford v. Yasuda* (USDC, CD, CA 2017).
- Representation of consulting company in a complex unfair-competition dispute related to the enforcement of non-solicitation agreement signed in connection with the sale of its business to a competitor. In the trial court, the Superior Court enforced the non-solicitation agreement against the seller but the Court of Appeal held that non-solicitation agreement was improperly overbroad and thus not enforceable. *Strategix Ltd. v. Infocrossing West* (CA Ct. App.).
- Representation of solar energy company and individuals in a shareholder and corporate dispute related to the purported transfer of property rights in solar-powered energy system technology. Marc's client prevailed in the Superior Court, and furthermore was able to recover the attorney fees it paid in the lawsuit based on the application of foreign law. *Dampier v. Solar & Environmental Technologies Corp.* (CA Ct. App. 2013),
- Representation with Morgan Chu of innovative software company in jury trial resulting in first verdict to invalidate software patent in the United States. *Candle Corp. v. Boole & Babbage* (USDC, CD, CA 1986).
- Representation of law firm seeking to recover attorney's fees from Non-Practicing Entity (patent troll) for legal work performed. After five AAA arbitrations, client recovered more than \$3,500,000.

Recent Publications / Presentations

- AlvaradoSmith contributes to California Litigation, Book Review by Marc D. Alexander of *We the Corporations*
- AlvaradoSmith Contributes To California Litigation, Book Review by Marc D. Alexander of *Give Us The Ballot*
- AlvaradoSmith Contributes to California Litigation, Book Review by Marc D. Alexander of *Jeffrey Rosen's Louis D. Brandeis: American Prophet*
- Confidentiality in Arbitration, by Marc D. Alexander Featured in California Litigation
- AlvaradoSmith Contributes To California Litigation, The Journal of the Litigation Section, State Bar of California "The Politics of Arbitration" by Marc D. Alexander.
- Of Counsel Marc D. Alexander Writes Article Published in California Litigation
- Daily Journal publishes article by Marc D. Alexander on Justice William Bedsworth
- Daily Journal publishes "Opening the Federal Courthouse door to takings claims" by Marc D. Alexander

Other Publications

- Marc is a Co-Creator and Contributor, with his long-time colleague Mike Hensley, to California Attorney's Fees, a blog about the law of attorney's fees in California.

- Marc is Creator and Contributor to California Mediation and Arbitration, a blog dedicated to providing up-to-date information about California case law and developments concerning mediation and arbitration – the two most common varieties of “alternative dispute resolution” (ADR).
- “AlvaradoSmith Contributes To California Arbitration Law With A Published Opinion In A Case Of First Impression,” 2014
- “When The American Rule Doesn’t Apply: Attorney’s Fees As Damages In Litigation, California Litigation,” 2008 (Co-Authoring with William M. Hensley)
- “Trespass To Chattel And Unsolicited Bulk Email,” 2003
- “Protecting Views With Municipal Ordinances California Land Use,” April, 2001
- “A Newspaper’s Shield Law: A Primer,” August, 1995
- “Despicable Conduct, Or How Punitives Have Been Damaged,” April, 1988
- “Software Patents And The On-Sale Bar,” January, 1988
- “When Can An Attorney Contact The Employee Of A Party Represented By Counsel? – Bright Line And Multi-Factor Approaches,” December, 1987
- “When Is A Software Program “Made For Hire?”, September, 1986
- “Discretionary Power To Impound And Destroy Infringing Articles: An Historical Perspective,” 1980

Recent News

- AlvaradoSmith Contributes To California Arbitration Law with A Published Opinion In A Case Of First Impression
- Daily Journal publishes article by Marc D. Alexander on Justice William Bedsworth
- Daily Journal publishes “Opening the Federal Courthouse door to takings claims” by Marc D. Alexander