



## Elizabeth S. Balfour

Partner

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### PRACTICE AREAS

- Litigation
- White Collar Defense and Corporate Investigations

### INDUSTRIES

- Digital Business
- Financial Services
- Life Sciences
- Retail

### OVERVIEW

Elizabeth S. Balfour is a litigator and works out of the firm's Del Mar Heights (Northern San Diego) office.

Ms. Balfour handles complex commercial and securities litigation, class actions, and internal investigations. She is experienced in all aspects of litigation, arbitration, and mediation. Ms. Balfour represents technology and life sciences companies in cases involving contract disputes, unfair competition, breach of fiduciary duty, theft of trade secrets, and products liability. She handles class action and creditor's rights cases for financial institutions and funds. She represents franchisors in franchise litigation and negotiations. Ms. Balfour has appeared in state and federal courts, NASD/FINRA arbitrations, and Securities and Exchange Commission enforcement proceedings. Her practice also involves advising clients on insurance coverage, document retention, and electronic discovery.

### EDUCATION

- J.D., Harvard University, 1999, *cum laude*
- B.A., Yale University, 1996, *magna cum laude*

### CLERKSHIPS

- Served for one year as Law Clerk to the Honorable Marilyn L. Huff, Chief Judge of the United States District Court for the Southern District of California

### ADMISSIONS

- California
- United States District Court for the Southern District of California
- United States District Court for the Central District of California

### EXPERIENCE

#### Representative Matters

Representing national franchisor in litigation involving contract claims asserted by franchisees.

Represented software company in federal securities class action against homestore.com and AOL. Motion to dismiss on behalf of client was granted and resulted in published opinion regarding "secondary liability" under Section 10(b) of the Securities and Exchange Act.

Represented a national bank in an action brought by franchisees of a tax preparation service in which plaintiffs asserted unfair business practices and sought to certify a nationwide class. Obtained a complete dismissal of the action before any discovery had occurred.

Represented the former CFO and board member of a public company sued in an SEC enforcement action and sued in multiple securities fraud lawsuits in New York and California. Negotiated a settlement for less than policy limits.

Represented a national bank in a lawsuit in which plaintiffs attacked the bank's lending practices and sought to certify a nationwide class of bank customers. Obtained an order dismissing plaintiffs' claims under the Consumer Legal Remedies Act. Settled the case after limited discovery.

Advised a manufacturer of office technology products in conjunction with products liability claims and reporting to the U.S. Consumer Product Safety Commission.

Represented a national weight loss company in a class action lawsuit alleging unfair business practices and misrepresentation. Defeated motion for class certification and negotiated a class-wide settlement involving minimal payments to the two named plaintiffs and a coupon offer for company product to any other putative class-members.

Handled claims for fraud and conspiracy to commit fraud, fraudulent conveyance, and breach of contract with alleged damages of \$7.5 million. Defeated summary judgment motions and successfully argued over 30 motion hearings.

Defended a Foundation accused of committing tax violations and successfully opposed the Government's request for a temporary restraining order and appointment of a receiver. Ultimately, the Government withdrew its case and the Court found the Government was required to pay the Foundation's legal fees incurred in opposing the Government's action.

Represented the President of a corporation in an enforcement action brought by the SEC for an alleged Ponzi scheme involving PinnFund mortgage company. Negotiated a settlement of the enforcement action with the SEC that involved working with the court-appointed Receiver and a bankruptcy Trustee.

Represented a provider of international telecommunications services as plaintiff and cross-defendant in federal court, in an action in which the parties sought damages for trademark infringement, misappropriation of trade secrets, and unfair competition.

Represented a company whose controller was convicted of embezzling over \$1.5 million in both civil and criminal proceedings.

Represented a victim of securities fraud in NASD/FINRA Arbitration proceedings. Case involved unauthorized trading and churning by the broker and failure to supervise by the brokerage firm. After a 5-day arbitration proceeding, reached a settlement with the broker and brokerage firm.

Represented a manufacturer in a products liability case against a materials supplier. As a result of defective products, manufacturer suffered damages of over \$13 million, including loss of business. Took critical depositions, after which the case settled on favorable terms for the manufacturer.

## HONORS

- AV® Rated, Martindale-Hubbell®
- 2010 Recipient of Lawyers Club of San Diego's "Community Service Award" for exemplary leadership and dedication to serving the under-represented in the San Diego and cross-border communities
- 2007 Recipient of the San Diego County Bar Association's "Service to the Bar" Award for extraordinary contributions towards the mission of the Bar Association
- 2005 Recipient of San Diego Metropolitan's "Forty Under 40" Award, which recognizes business and professional leaders in San Diego under the age of 40
- 2005 Recipient of the Sheppard Mullin Richter & Hampton Pro Bono Attorney of the Year Award for outstanding commitment to working in the community and providing legal services to the indigent
- 2002 Recipient of the San Diego Volunteer Lawyer Program Distinguished Service Award
- 2002 Recipient of the California Bar Association Wiley Manuel Award for Pro Bono Legal Services

## MEMBERSHIPS

- Board Member, Center for Employment Opportunities
- Advisory Board Member, Genesis International Orphanage Foundation
- Vice President and Secretary, Board of Directors of the San Diego County Bar Association (2008 - 2010)
- Board Member, Legal Aid Society of San Diego (2008 - 2010)
- Co-Chair, Children at Risk Committee of the San Diego County Bar Association (2004 - 2006)
- Associate, Louis M. Welsh American Inn of Court (2002 - 2003)
- Women's Resource Fair Task Force Member
- Member, American Bar Association
- Member, Federal Bar Association
- Member, California Women Lawyers
- Member, Lawyers Club of San Diego

## ARTICLES

### Corporate & Securities Law Blog Articles

- "District Court Holds No D&O Insurance Coverage For Attorneys' Fees And Costs Incurred In Voluntary Response To SEC Investigation", October 28, 2010
- "Delaware Chancery Court Questions Good Faith of Directors in Sale of Company to Unrelated Party at a Premium", August 26, 2008

### San Diego Daily Transcript Articles published in conjunction with special editions on:

- Top Corporate Counsel in San Diego, September 3, 2008
- Best Young Attorneys in San Diego, November 21, 2007

**SPEECHES**

- "Building Your Network," Law Practice Management and Marketing Section of the San Diego County Bar Association, June 9, 2011
- "Knock Knock: What to do When the Government Knock on Your Door (and how to prevent it from happening)," Association of Corporate Counsel, San Diego Chapter, December 16, 2010
- "Privacy Law Perils in California, the Nation, and Beyond: Securing Data Responding to Theft of Data and Other Business Assets, Assessing Your Company's Privacy Policy, Evaluating Risks Presented by Your Employees' Computer Use, and Understanding Government Enforcement Mechanisms," Association of Corporate Counsel, San Diego Chapter, Mini-MBA Program, November 18, 2008
- "Effective Negotiating Skills for Women," California Women Lawyers Continuing Legal Education Seminar, April 16, 2008
- "Responding to the Crisis Situation: Do's and Don'ts, Best Practices for Responding to the Unexpected in the Context of Government Investigations," Annual CAPA Conference, June 23, 2007