



## Neil A.F. Popovic

Partner

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### PRACTICE AREAS

- Litigation
- International Arbitration
- White Collar and Civil Fraud Defense
- Environmental

### INDUSTRIES

- Healthcare

### OVERVIEW

Mr. Popovic is a partner in the Business Trial practice group in the firm's San Francisco office and is Chair of the International Arbitration Practice.

### Areas of Practice

Mr. Popovic's litigation experience includes a wide range of commercial disputes, including consumer class actions, white collar criminal matters (including internal investigations) and international litigation (including international arbitration) and counseling. Mr. Popovic has developed expertise in legal issues related to environmental marketing. Mr. Popovic also practices international environmental law, including representing clients in international negotiations. He teaches courses in International Litigation and Arbitration and International Environmental Law at Berkeley Law (Boalt Hall). His commercial practice includes extensive experience litigating matters under California's Unfair Competition Law, Business and Professions Code section 17200.

Mr. Popovic has represented a variety of clients including, *Alaska Permanent Fund Corporation, The Republic of Argentina, Asiacontent.com, Caremark, Inc., Concern Sojuzvneshtrans, Dah Mei Silk Weaving Pty. Co., Ltd., Earthjustice, Fellowship of Reconciliation, Fiji Water Company LLC, Julia Butterfly Hill, Home Americair of California, iGlobe Partners, IMPAX Laboratories, ITT Sheraton Corporation, McDonald's Corporation, MCI, Inc., Minnesota Mining and Manufacturing Company, Muzak Limited Partnership, MDS Nordion, Palm Inc., Polyprima Karyareksa, PT, RSA Security Inc., The Republic of Congo, Roll International Corporation, Seagate Technology, ValleyCare Health System and Wells Fargo Bank, N.A.*

Prior to joining Sheppard Mullin, he was a shareholder at Heller Ehrman in San Francisco; before that, he was an attorney with the Sierra Club Legal Defense Fund International Program in San Francisco; and prior to that, he practiced with a San Francisco civil and criminal litigation boutique.

### EDUCATION

- J.D., University of California, Berkeley, Boalt Hall School of Law, 1987, Note and Comment Editor, California Law Review
- M.A., Tufts University, The Fletcher School of Law and Diplomacy, 1992, Ford Foundation Fellow in Public International Law
- Academy of European Law, Summer Session 1995
- A.B., University of California, Berkeley, 1983

## CLERKSHIPS

- Mr. Popovic served as a law clerk to the Honorable Alicemarie H. Stotler of the U.S. District Court in Los Angeles and Santa Ana.
- Mr. Popovic was a judicial extern for Justice Joseph R. Grodin of the Supreme Court of California.

## ADMISSIONS

- California
- United States Supreme Court

## EXPERIENCE

Represent *Seagate* in class actions challenging disclosures about computer hard drive storage capacity, including arguing leading case regarding class action settlements, *Cho v. Seagate Technology Holdings, Inc.*, 177 Cal. App. 4th 734 (2009).

Obtained complete dismissal with prejudice in putative class action alleging "greenwashing" based on *Fiji Water's* use of green drop, "fijigreen.com" and "every drop is green" on labels of Fiji Water bottles.

Represented international medical products company in threatened international arbitration regarding distribution rights. Successfully prevented other party from initiating arbitration.

Represent *Palm Inc.*, in consumer class actions involving Palm products and services.

Represented Indonesian chemical company in international arbitration before London Court of International Arbitration arising out of sale of chemical manufacturing facilities.

Represent Taiwanese business owner in series of disputes arising out of sale of textile-related businesses. Includes first-chair experience in international arbitration before China International Economic and Trade Arbitration Commission (CIETAC).

Represented *McDonald's* in highly publicized, multiple class action "french fries" litigation in California, Washington, Texas, New Jersey and Illinois, involving alleged non-disclosure that fries contain beef flavoring.

Represented flash memory and computer hard drive manufacturers in consumer class actions alleging inadequate disclosure of memory storage capacity.

Represented *Republic of Congo (Brazzaville)* in action to collect defaulted loan obligation under Foreign Sovereign Immunities Act, creating new Ninth Circuit law on scope of "commercial activity" exception to foreign sovereign immunity. *Af-Cap, Inc. v. Chevron Overseas (Congo) Ltd.*, 475 F.3d 1080 (9th Cir. 2007).

Represented *Republic of Argentina* in defending against attempt to seize Argentine presidential airplane ("Tango 01") to collect debt arising out of Argentine financial crisis. Case dismissed under Foreign Sovereign Immunities Act. *Colella v. Republic of Argentina*, 2007 WL 154204 (N.D. Cal., May 29, 2007).

Co-authored successful amicus brief in United States Supreme Court on behalf of Amnesty International, Center for Constitutional Rights, and international and foreign bar

associations in *Graham v. Florida*, discussing relevance of international human rights and foreign law in 8th Amendment challenge to life without parole sentences for non-homicide juvenile offenders.

Advised foreign government as special counsel in negotiations for free trade agreements with United States and third country.

Represented individual employee of chip manufacturer in criminal antitrust investigation involving DRAM computer chips.

Represented Russian freight forwarding company *Concern Sojuzvneshttrans* in litigation involving alleged breach of guaranty on lease of shipping containers.

Successfully defended pharmaceutical manufacturer in administrative disciplinary proceedings to suspend license.

Represented major insurance brokerage firm in class action litigation challenging its disclosure of commissions and fees.

## MEMBERSHIPS

- State Bar of California (International Section)
- American Society of International Law
- Board of Directors, EarthRights International
- Board of Directors, Center for Youth Development Through Law
- Advisory Board, Center for Law, Energy and the Environment
- Bar Association of San Francisco; Leadership Council, Volunteer Legal Services Program
- International Law Association (American Branch)
- Northern California International Arbitration Club
- Northwest Subcommittee, ICC Arbitration Committee (U.S.)

## ARTICLES

- "Do you recognize this?" *Domestication of Foreign-Country Money Judgments in California*, 2 Berkeley Journal of International Law Publicist (2009), <http://bjil.typepad.com/publicist/2009/09/popovicpublicistv2.html>
- *Foreign Matters: How to obtain recognition of foreign-court judgments*, The Recorder, May 1, 2009
- *Recovery Tactics Outlined for Foreign Takeover Losses*, Oil and Gas Journal, June 25, 2007
- *BIT Implications of Recent Government Activities in Bolivia and Venezuela*, Heller Ehrman Bulletin, September 2006
- *Some Thoughts on KOREA SUPPLY—Monetary Remedies Under Section 17200*, Heller Ehrman Bulletin, April 15, 2003
- *Some Thoughts on Kraus and Cortez*, Heller Ehrman Bulletin (Summer 2000)
- *Women and the Environment*, in Kelly Askin & Dorean Koenig, eds., *Women and International Human Rights Law* (Transnational Publishers 1999)
- *Environmental Injustice on United States Bases in Panama: International Law and the Right to Land Free from Contamination and Explosives*, 38 Virginia Journal of International Law 401 (1998) (with J. Martin Wagner)

- *The Myth of Objectivity*, in Human Rights, Environmental Law, and the Earth Charter (Boston Research Center for the 21st Century 1998)
- *CCR's Hidden Conflict: Prop. 209 Would Violate Human Rights Treaties Recently Ratified by the U.S. Senate*, The Recorder, October 9, 1996, at 4
- *Environmental Racism in the United States and the Convention on the Elimination of Racial Discrimination*, 14 Netherlands Quarterly of Human Rights 277 (1996)
- *In Pursuit of Environmental Human Rights: Commentary on the Draft Declaration of Principles on Human Rights and the Environment*, 27 Columbia Human Rights Law Review 487 (1996)
- *Pursuing Environmental Justice With International Human Rights and State Constitutions*, 15 Stanford Environmental Law Journal 338 (1996)
- *U.N. Special Rapporteur on Toxic Dumping*, 8:1 International Toxics Investigator 9 (1996)
- *Humanitarian Law, Protection of the Environment and Human Rights*, 8 Georgetown International Environmental Law Review 67 (1995)
- *The Game of the Name*, Ms. Magazine, November-December 1994, at 96
- *Lawmaking in the United Nations: The UN Study on Human Rights and Environment*, 3 Review of European Community and International Environmental Law 197 (1994) (with Adriana Fabra Aguilar)
- *Sex, Violence & Rock 'n' Roll: The First Amendment at the Close of the Millennium* (St. Hieronymus Press 1994) (with David Lance Goines)
- *Using Environmental Law for Effective Environmental Management—Hungary* (Sierra Club Legal Defense Fund/Environmental Management and Law Association 1994) (editor)
- *The Right to Participate in Decisions that Affect the Environment*, 10 Pace Environmental Law Review 683 (1993)
- *Comment, A Human Rights Approach to the Labor Rights of Undocumented Workers*, 74 California Law Review 1715 (1986) (published under former name Neil A. Friedman)

#### **Class Action Defense Strategy Law Blog Articles**

- "Ninth Circuit Makes CAFA Jurisdiction Stick," April 23, 2010

#### **Climate Change & Clean Technology Law Blog Articles**

- "How a U.S. Climate Change Bill Could Lead to Trouble at the WTO," March 26, 2009