



→ Elizabeth S. Balfour

Partner

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

Areas of Practice

Elizabeth handles commercial litigation, including cases involving breach of contract, indemnification claims, enforcement of buy-sell agreements and other disputes arising out of corporate transactions. Her securities litigation practice includes shareholder derivative claims, class actions, SEC enforcement actions and internal investigations. Elizabeth also represents clients in franchise litigation and negotiations. She counsels clients on document retention, insurance coverage, and corporate governance matters. Elizabeth litigates in state and federal courts, administrative proceedings and FINRA arbitrations.

Elizabeth's healthcare practice includes representing provider and payor clients in proceedings initiated by the Office of the Inspector General, the Department of Health and Human Services Office for Civil Rights and other federal and state regulatory agencies. She advises hospitals, medical groups, health systems, managed care plans and payors in relation to HIPAA, the Stark Law, anti-fraud and abuse compliance and mandates arising out of the Affordable Care Act. She also assists clients in the information technology, pharmacy and medical device arenas on healthcare regulatory compliance. Elizabeth advises public hospitals on the Brown Act, the Freedom of Information Act, the Political Reform Act, California Government Code Section 1090 and other conflict of interest laws.

Honors

2021, Recognized for Commercial Litigation, *Best Layers*

2017 Recognized as BTI Client Service All-Star

2016 Recipient of YWCA of San Diego's TWIN (Tribute to Women in Industry) Award

AV® Rated, Martindale-Hubbell®

2014 Rated one of the Top Lawyers in Healthcare by

San Diego Magazine

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

Experience

Representative Matters

- Represented a biologics company in relation to a dispute involving indemnification for a third-party claim. Obtained a favorable resolution after litigation was initiated.
- Represented a healthcare provider in a contractual dispute with its former management services company. Negotiated a resolution that facilitated the sale of the healthcare provider.
- Represented a former officer of a publicly traded pharmaceutical company in relation to the Board of Directors Special Litigation Committee's investigation of allegations in a derivative shareholder suit in Delaware Chancery Court.
- Represented a 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 footwear company in a derivative lawsuit brought by a shareholder alleging breach of fiduciary duty. Obtained a favorable settlement.
- Represented a medical group in an investigation initiated by the Department of Health and Human Services Office for Civil Rights.
- Representing a California municipal hospital in the role of outside General Counsel in relation to contracting, governance, joint ventures and strategic alliances, fraud and abuse and Stark compliance, litigation oversight, HIPAA and state privacy law, public bond financing and Brown Act compliance.
- Representing a California district hospital in relation to state and federal healthcare regulatory matters, HIPAA compliance and OCR reporting and internal investigations.
- Represented national franchisor in litigation filed by franchise group. Obtained complete dismissal of all claims.
- 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 a private, for-profit university in an action against a former employee asserting claims against the former employee arising out of the former employee's improper disclosure of confidential information.
- 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.
- Represented a for-profit education company and its principal in an investigation of the company's compliance with immigration and tax laws.
- 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 five-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.

Articles

Eye on Privacy Blog Posts

- "Sharing PHI Without Consent: An OCR Reminder," November 6, 2017

Corporate & Securities Law Blog Posts

- "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

Healthcare Law Blog Posts

- "Patient Empowerment Through Technology is Focus of ENGAGE Conference," December 7, 2018
- "Blog Series Part 7: CMS Proposed Rule on Policy and Technical Changes to the Medicare Advantage, Medicare Prescription Drug Benefit, Medicaid Fee-For-Service, and Medicaid Managed Care Programs for

2020 and 2021," November 28, 2018

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

Speaking Engagements

"Covid & Our Courts: Responses, Challenges, and Access to Justice," YCSD Alumni Perspectives, Virtual Event, December 2, 2020

"COVID-19 and Commercial Contracts – Can we get out of theirs? Can they get out of ours?" Association of Corporate Counsel, San Diego Chapter, April 9, 2020

"Interactive Data Breach Simulation," Association of Corporate Counsel, San Diego Chapter, April 25, 2018

"You've Revised Your Arbitration Agreements in Light of AT&T Mobility LLC v. Concepcion, Now What?" Association of Corporate Counsel, San Diego Chapter, November 15, 2012

"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

Events

Believe It or Not – COVID-19 Can Injure Your Trade Secrets and Cause an Outbreak of Misappropriation Claims Against You: A Two Part Series
Webinar, 02.10 - 02.24.2021

Overview of the 21st Century Cures Act: Key Points for Healthcare Companies
ACC San Diego
Webinar, 10.08.2020

COVID-19 and Commercial Contracts – Can we get out of theirs? Can they get out of ours?
via Zoom Webinar, 04.09.2020

Data Security and Privacy Roundtable
Interactive Data Breach Simulation
04.25.2018

What Happens if You Get Sued? Litigation Basics
Third Thursday Emerging Company Webinar Series
via WebEx, 12.17.2015

Memberships

Board of Directors, Center for Employment Opportunities
Advisory Board Member, Genesis International Orphanage Foundation
Advisory Board Member, Girls on the Run San Diego
Served on the Judicial Evaluation Committee of the San Diego County Bar Association (2011-2012)
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)
Fundraising Chair, Women's Resource Fair Task Force
Member, American Bar Association
Member, Federal Bar Association
Member, California Women Lawyers
Member, Lawyers Club of San Diego

Podcasts & Webinars

Part Two: Best Practices To Protect Your Trade Secrets
02.24.2021

Part One: Reducing The Risk Of Trade Secret Misappropriation Claims
02.10.2021

Overview of the 21st Century Cures Act Webinar
10.08.2020

Practices

Healthcare
White Collar Defense and Corporate Investigations
Litigation

Securities Litigation
Securities Enforcement
Class Action Defense

Industries

Education
Financial Services
Healthcare
Insurance
Life Sciences and FDA
Nonprofit
Retail

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 U.S. 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