

Fisher Broyles

Name: Scott Goldsmith

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Office: Los Angeles

Practice Areas: Commercial Litigation; Compliance Counseling; Cyber-Risk, Privacy & Data Security; Internet & eCommerce; Litigation & Risk Mgmt; Litigation – Civil Pretrial and Trial Services; TCPA Practice Group; White Collar Litigation and Investigations

Bar Admissions: California; U.S. Court of Appeals for the Ninth Circuit; U.S. District Court for the Central District of California; U.S. District Court for the Southern District of California; U.S. District Court for the Northern District of California; U.S. District Court for the Eastern District of California; U.S. District Court for the Western District of Texas

Education: University of San Diego School of Law (J.D., 2008); University of California, Berkeley (B.S. Business Administration, 2005)

Experience: Dorsey & Whitney LLP; Lewis Brisbois Bisgaard & Smith LLP

Scott brings the tenacity of a former prosecutor to his representation of clients in high-stakes commercial litigation and class action defense. Having tried over twenty cases through final jury verdict, and over one hundred fifty evidentiary hearings, Scott understands that effective advocacy requires creativity, composure, and thorough preparation.

Scott routinely defends clients in nationwide class litigation, with particular emphasis on alleged violations of consumer protection statutes, including the Telephone Consumer Protection Act (TCPA), the Fair Credit Reporting Act (FCRA), data breach and privacy violations, false and misleading advertising claims, unfair business practices, violations of debt collection statutes, and unlawful call recordings. Scott formerly led the national TCPA practice for an Am Law 100 law firm.

Scott advises businesses in connection with marketing campaigns and customer communications to help them proactively navigate the alphabet soup of regulations, including the TCPA, TSR, CAN-SPAM Act, CCPA, and various other privacy and e-commerce regulations.

Scott also prosecutes, defends, and investigates claims stemming from business and contractual relationships, including claims involving fraud, employee embezzlement and sabotage, misappropriation of trade secrets, shareholder derivative actions, and real estate disputes. Scott represents businesses

and individuals in State and Federal investigations and enforcement actions, including False Claims Act investigations.

Scott formerly served as a Deputy District Attorney in San Diego where he was assigned to the Felony Trial Team and proudly fought for victims of serious and violent crimes.

Representative Litigation

Representative Class Action Litigation

- Represent large financial institutions, retail, food and beverage, and real estate industry clients in putative class actions and individual actions alleging violations of the TCPA and other consumer protection statutes.
- Defeated class certification of a “wrong number” and “do not call” data class in a putative nationwide TCPA class action against a major auto finance company with millions of customers.
- Defeated class certification of a “no consent” class in a putative nationwide TCPA class action in the Western District of Texas.
- Exposed unlawful legal referral service operating as a call blocking application by thoroughly investigating a class action plaintiff’s claims, resulting in the company shutting down its legal referral service.
- Won complete dismissal and denial of class certification at the pleading stage in putative class action alleging violation of California’s Unfair Competition Law and related statutes against a national food and beverage industry client.
- Defeated class certification in an alleged false and misleading food labeling case against a national grocery chain.
- Defended international juice company against several putative class actions in multiple jurisdictions alleging false and misleading advertising, unfair business practices, violation of California’s Consumer Legal Remedies Act, and breach of warranty.
- Defeated class certification, renewed motion for class certification, and petition for permission to appeal in false advertising putative class action.
- Defended medical billing vendor through final class settlement in class action alleging unlawful disclosure of confidential medical information.
- Defended hospital in putative class action alleging unlawful disclosure of confidential medical information.
- Secured dismissal for lack of subject matter jurisdiction in putative class action alleging illegal call recordings pursuant to California Penal Code 632.7.

Representative Commercial Litigation

- Prosecuted claims against former CFO who embezzled millions, secured pre-judgment attachment of multiple assets, and ultimately recovered substantial sums for the client.
- Prosecuted and defended several shareholder and member derivative suits alleging breach of fiduciary duties, misappropriation of trade secrets, fraud, conversion, and other claims.

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- Obtained emergency temporary restraining order preventing trustee sales of over 250 acres of undeveloped land in California, after which the parties reached a settlement.
- Represented client in False Claims Act investigation prompted by disgruntled former employee, resulting in no action from regulators.
- Led emergency investigation regarding plot to destroy company servers. Intercepted and interviewed suspect within hours along with private investigator team, thwarting the plan and leading to termination of two employees.
- Obtained arbitration order awarding sanctions, including attorney's fees, against the claimant and in favor client for "patently frivolous" claims.
- Obtained sanctions against vexatious pro se litigant who had sued the client three times alleging violations of the FCRA and other claims.
- Obtained dismissal for lack of personal jurisdiction in case alleging fraudulent sale of life insurance policies and unregistered securities.
- Obtained dismissal and favorable settlement after filing an anti-SLAPP motion in suit accusing screenwriter client of defaming her ex-boyfriend in a television show pilot script.
- Obtained a favorable settlement in a complex tax services and breach of contract dispute after dismantling half of the plaintiff's claims at the pleading stage.
- Obtained favorable settlement for professional boxer in contract dispute with former manager over a prize fight purse.
- Secured client's release on bail within several days of substituting in for prior counsel where Court had previously set no bail under any conditions in federal criminal indictment alleging over \$7,000,000 in Medicare fraud.

Accolades

- Listed as "Rising Star" by Southern California Super Lawyers for Business Litigation, 2017-2018

Select Presentations

- Presenter, "An Update on the FCC's Actions to Combat Illegal Robocalls," Accounts Recovery.Net, July 24, 2020
- Presenter, "The TRACED Act and Its Impact on the TCPA Landscape Explored," Knowledge Group, June 18, 2020
- Panelist, "How an ATDS is Defined Across the Country--What You Need to Know," Accounts Recovery.Net, May 13, 2020
- Panelist, "Privacy & Data Breach Class Actions." Class Action Law Forum, University of San Diego School of Law, March 4, 2020
- Presenter, "Trends and Updates in the TCPA: Significant Compliance Tips and Strategies," Knowledge Group, November 26, 2019
- Presenter, "Brand Activation Legal Committee Meeting," Association of National Advertisers, October 17, 2019 (Topics included CCPA, TCPA, FTC Enforcement)

- Panelist, "Exploring the Impact of ACA on TCPA Litigation in the Backdrop of the Debt Collection and Residential Mortgage Industries," ACI Residential Mortgage Regulatory Enforcement & Litigation, October 22, 2018
- Presenter, "TCPA and FCRA Trends for 2018," Bank Counsel Round table, May 21, 2018

In the News

- Quoted, "FisherBroyles Snags Privacy Litigation Partner from Dorsey," Law360, July 31, 2020
- Quoted, "Big Law Practice Leader Becomes a Virtual Law Firm Convert," Reuters, July 17, 2020
- Quoted, "Supreme Court Severs Gov't Collection Exemption from TCPA; Leaves Rest of Statute Alone," Compliance Digest, AccountsRecovery.net, July 13, 2020
- Quoted, "FCC Eases Robocall Limits for Health Providers Amid Pandemic," Bloomberg Law, March 23, 2020
- Quoted, "How to Plan for a Crises Before Disaster Strikes," Hotel News Now, May 22, 2020
- Quoted, "One Unwanted Text Ad Isn't Unlawful Telemarketing: 11th Cir.," Bloomberg Law, August 28, 2019
- Quoted, "Robocall Spammers Are Rampant, and the Best Solutions Are Drastic," Tech.co, August 5, 2019
- Quoted, "Supreme Court Sends Junk-Fax Case Back to Fourth Circuit," Bloomberg Law, June 20, 2019
- Quoted, "Telemarketing Lawsuits Dial Up the Pain," Business Insurance, March 3, 2019
- Quoted, "Supreme Court Could Set Boundaries on Scope of FCC Guidance," Business Insurance, November 27, 2018
- Quoted, "9th Circuit Text Messaging TCPA Ruling Defines ATDS Broadly," Communications Daily, September 24, 2018
- Quoted, "9th Cir. Heats Up TCPA Debate With Broad Autodialer Take," Law360, September 24, 2018
- Quoted, "FCC's Biggest Fine Ever Goes to Robocall Spammer," The Daily Dot, March 11, 2018

Select Publications

- Author, "FCC Narrows the TCPA's Emergency Purpose Exception Amid Pandemic," Consumer Financial Services Legal Update, March 23, 2020
- Author, "FCC Creates New TCPA Safe Harbor and Reassigned Phone Number Database," Consumer Financial Services Legal Update, December 14, 2018
- Author, "TCPA Roundup: A Week of Blockbuster News from the Supreme Court, the Ninth Circuit, the FCC, and a Few District Courts," Consumer Financial Services Legal Update, November 16, 2018
- Author, "Ninth Circuit Rules an ATDS Need Only Have the Capacity to 'Store Numbers to Be Called' and Dial 'Automatically,'" Consumer Financial Services Legal Update, September 21, 2018
- Author, "When a Disclosure Form Must 'Stand Alone': Recent Cases Hold Companies Liable for Including Too Much on FCRA Disclosures," April 25, 2018

- Author, "Student Loan Creditor Off the Hook for Third Party Collectors' TCPA Violations, But is Not Exempt for Collecting Government Backed Debts," Consumer Financial Services Legal Update, March 6, 2017
- Co-Author, "Spokeo Without Scalia: The Fate of No-Injury Class Actions," Law360, February 23, 2016