

# Daily Journal

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## Lawyers in California 2016

### LITIGATION

MICHAEL G. RHODES

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SPECIALTY: COMPLEX COMMERCIAL DISPUTES

Rhodes owes his career to market-disrupting tech clients involved in big dollar litigation over intellectual property, privacy, business disputes and consumer class actions. “I live at the intersection of law and innovation,” he said. “I have staked out the internet as my field.” He represents Google Inc., Facebook Inc., Twitter Inc., ServiceNow Inc. and King Digital Entertainment PLC, among others.

“Yesterday, I was retained by Pokemon Go,” he said in mid-August. “I had to call my son to have him explain how the game works. That was pathetic. I realized that the other weekend when I was riding my bike and a kid walked out in front of me with his face in his phone, he probably was a player.” He’ll defend San Francisco-based game maker Niantic Inc., the Pokemon Go developer, on separate class action claims by property owners that Pokemon hunters are induced to trespass. *Marder v. Niantic Inc.*, 16-cv-04300 (N.D. Cal., filed July 29, 2016).

Also fresh on Rhodes’ docket is the defense of Snapchat Inc. in a class action filed in July on claims that the defendant’s “discover” feature intentionally exposes minors to “harmful, offensive, prurient, and sexually offensive content” in violation of the Communications Decency Act. “I get to go

against Mark Geragos,” Rhodes said, naming the prominent Los Angeles plaintiffs’ lawyer. “But we think there’s ironclad safe harbor immunity in the CDA’s Section 230.” *Doe v. Snapchat Inc.*, 2:16-cv-04955 (C.D. Cal., filed July 7, 2016).

Rhodes successfully defended Facebook in what has been billed as the largest privacy or “right of publicity” class action ever filed over plaintiffs’ challenge to the company’s display of user names and profile pictures in sponsored stories. The claim held that Facebook improperly exploited the material for commercial purposes without the users’ consent. The proposed class would have included nearly 50 percent of the U.S. population. The plaintiffs sought statutory damages of billions of dollars. After extensive litigation, the case settled on the eve of the class certification hearing with a settlement fund capped at \$20 million. Objectors to the settlement appealed and in January the 9th U.S. Circuit Court of Appeals approved the deal. “We litigated the heck out of that one,” Rhodes said. “We sent out 140 million settlement notices. It worked out.” *Fralely v. Facebook Inc.*, 13-16819 (9th Cir., filed Jan. 6, 2016).

Also in January, Rhodes persuaded opposing counsel to dismiss, without settlement, a pending privacy class action against Twitter



related to its direct messaging service. “We convinced them the service didn’t work the way they thought,” Rhodes said. “It was nice that they saw the light. It doesn’t happen every day that a reasonable lawyer comes along and does the right thing.” *Raney v. Twitter Inc.*, 3:15-cv-04191 (N.D. Cal., filed Sept. 14, 2015).

— John Roem