

Matthew D. Brown

Partner



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San Francisco

Commercial Litigation
Class Action Litigation
Cyber/Data/Privacy
Intellectual Property Litigation
Internet and Social Media
Technology
White Collar Defense and Investigations
Cybersecurity
CooleyREG

Matt Brown is a member of Cooley's commercial litigation, class action litigation, cyber/data/privacy, intellectual property litigation, and white collar defense & investigations practice groups. He has extensive experience defending companies in cases presenting novel issues arising from emerging technologies and business models, including many cases involving cutting-edge privacy and data security issues.

Matt represents clients in a wide array of cases in state and federal courts across the country, as well as in alternative dispute resolution proceedings. He has substantial experience in all major stages of litigation, including pretrial, trial and appeal.

Matt also provides counseling to companies that are seeking to assess and to manage potential liability risks. For example, he has advised companies developing new digital and web-based products and services, including those that allow for distribution of user-generated content, on managing the risk of copyright liability. He has also advised companies on privacy issues associated with their products and services and on appropriate responses to subpoenas and other requests for disclosure of user information and content. Additionally, he has advised companies on available options and strategies when company-related information or potentially defamatory commentary appears on blogs, message boards or other websites.

Earlier in his career, as part of a Cooley-sponsored program, Matt spent several months serving as an assistant district attorney for the City and County of San Francisco, prosecuting criminal cases such as sexual battery, child endangerment, burglary, carrying a concealed weapon, battery, hit-and-run and driving under the influence.

In 2018, Matt was recognized as a "Client Service All-Star" by BTI on its annual list of elite lawyers who have mastered the art of superior client service. In 2016, he was named a "Top Incident Response Leader" by Cybersecurity Docket, and in 2016 and 2017, he was recommended by Legal 500 US in the areas of Data Protection and Privacy and Cyber Law. In 2009, Matt was elected to The American Law Institute (ALI), where he has served on the Members Consultative Group for the ALI's Principles of the Law—Data Privacy.

Representative litigation matters:

Privacy, internet and intellectual property

- Represented or continues to represent Facebook, Instagram, LinkedIn, eBay, Google, YouTube, HTC, Twitter and Upsight in numerous privacy and data-breach class actions raising a variety of legal theories and claims.
- *In re iPhone/iPad Application Consumer Privacy Litigation*: Represented five mobile-industry companies (AdMarvel, Medialets, Millennial Media, The Weather Channel and Backflip Studios) named as defendants in a series of class actions alleging that Apple and various mobile application developers, publishers and

advertising-related companies improperly obtained information from users of iPhone and iPad devices.

- *Capitol Records v. VideoEgg and Hi5 Networks*: Represented operator of social networking website, Hi5.com, in case in which plaintiff music recording and publishing companies alleged copyright infringement on basis of website users' uploading of video files.
- *MGM Studios v. Grokster*: Prepared amicus brief in the US Supreme Court on behalf of nine emerging technology companies in landmark case involving secondary liability for copyright infringement in the context of peer-to-peer file-sharing software. Brief was cited in the court's unanimous opinion. Provided commentary on the decision for an NPR news report.
- *Kathleen R. v. City of Livermore*: Authored amicus brief and successfully argued before California Court of Appeal on behalf of 100+ cities and counties on issue of first impression in courts nationwide – whether §230 of federal Communications Decency Act pre-empted state law claims against city based on minor's access to allegedly harmful internet content at public library.
- *ViroLogic v. Doe*: Represented biotechnology company in case alleging that anonymous poster on Yahoo message board disclosed confidential company information. On issue of first impression, received favorable appellate ruling that client's due process rights were violated by trial court order disallowing outside counsel from revealing defendant's identity to company executives for purposes of responding to defendant's anti-SLAPP motion to strike the complaint.

Other commercial litigation

- Represent food companies in matters asserting claims by putative classes of consumers, alleging presence of genetically modified, bioengineered, highly processed or otherwise unnatural ingredients in food products labeled or advertised as "natural" or "all natural."
- *In re Gilead Sciences Securities Litigation*: Represented public company in securities class action filed on behalf of putative class of shareholders.
- *In re Pacific Gas & Electric*: Member of trial team that won bankruptcy court approval of PG&E's reorganization plan under Chapter 11, the largest utility bankruptcy proceeding in US history.
- *Northrop Grumman v. Adaptive Broadband*: Represented defendant in litigation alleging breach of contract and misrepresentation in connection with plaintiff's acquisition of division of company.
- Represented private equity firm in dispute with selling shareholders that involved claims of breach of contract, misrepresentation and concealment in connection with acquisition of privately held company.
- Represented investment banking firm in action against company for failure to pay fees for services rendered under engagement agreement in connection with offerings of the company's securities.

White-collar criminal defense

- Represented insurance broker in nine-month trial prosecuted by New York attorney plan general, alleging 37 counts of scheme to defraud, restraint of trade and competition, and grand larceny. Obtained dismissal or acquittal on 36 counts. On sole remaining count, judgment vacated post-trial.
- Represented executive of national clinical laboratory company prosecuted by US Department of Justice for conspiracy to defraud Medicare program. Won judgment of acquittal at trial in District of Massachusetts.

Pro bono

- Submitted amicus brief on behalf of the Innocence Network in habeas corpus case before 9th US Circuit Court of Appeals concerning claim of actual innocence based on new scientific evidence.
- Submitted amicus brief on behalf of the Innocence Network in case before US Supreme Court addressing

harmless error standard in habeas corpus cases.

Representative publications:

- c/d/p Insights, Litigation & Regulator Actions California Supreme Court Boosts Policyholders Seeking Coverage for Privacy Class Actions, January 2023
- Six-part series on topics in privacy, class action and internet law, Inside Counsel magazine (2012-2013)
- "Secondary Liability for Inducing Copyright Infringement After *MGM v. Grokster*: Infringement-Prevention and Product Design," 9 Journal of Internet Law No. 6, at 21 (December 2005)

Education

Harvard Law School

JD cum laude, 1998

Cornell University

AB with Distinction, Phi Beta Kappa, 1992

Admissions & Credentials

California

Court Admissions

US Supreme Court

US Court of Appeals for the First Circuit

US Court of Appeals for the Ninth Circuit

US District Court for the Northern District of California

US District Court for the Central District of California

US District Court for the Eastern District of California

US District Court for the Southern District of California

US District Court for the Northern District of Illinois

Rankings & Accolades

BTI Client Service All-Star (2018)

Cybersecurity Docket: Top Incident Response Leader (2016)

Legal 500 US: Data Protection and Privacy and Cyber Law (2016, 2017)

Law360: Privacy Group of the Year (2011, 2013 - 2017, 2020)

The Recorder: Litigation Department of the Year – Privacy (2015, 2017)

Northern California Super Lawyers – Business Litigation (2013 - 2018)

Memberships & Affiliations

American Bar Association (ABA)

American Law Institute

Association of Business Trial Lawyers

Bar Association of San Francisco

National Association of Criminal Defense Lawyers