

# Chad A. Westfall

Partner, San Francisco Office

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## PRACTICE GROUPS

- Insurance
- Business Litigation

## EDUCATION

Bucknell University, B.A., 1993

University of San Francisco Law School, J.D., *cum laude*, 2000



## PROFESSIONAL SUMMARY

Chad A. Westfall is a partner in the Firm's San Francisco office. He practices in the area of complex civil and commercial litigation, handling matters for domestic and international clients in state and federal courts across the United States. His practice has included a variety of disputes in the areas of contract, antitrust, unfair competition, employment and business torts, including the defense of class actions.

Mr. Westfall spends part of his practice providing litigation and counseling services to insurance industry clients. He routinely handles matters involving General Liability, including environmental and health hazard liability, construction and personal and advertising injury, Professional Liability, including policies covering lawyers, doctors, architects, brokers, medical professionals, and medical facilities, Technology Errors And Omissions, Directors And Officers Liability, Employment Practices Liability, Automobile Liability; Workers Compensation, and first party property insurance. Mr. Westfall provides advice with respect to issues of coverage, claims handling and litigation management. He has extensive experience in insurance-related litigation, including bad faith, coverage, subrogation, contribution and reinsurance, and has defended insurers in some of the largest-dollar coverage

disputes in the nation.

## Representative Matters

### Significant Litigation and Appeals

- Obtained summary judgment for insurer on issues of first impression in North Carolina, including ruling that pro-rata allocation applied to coverage for benzene-related bodily injury suits, the insured must bear a pro-rata share of both defense and indemnity and the statute of limitations barred coverage for more than 390 underlying suits. (2015)
- Trial counsel for primary insurer in a two-day plan confirmation trial on remand after obtaining reversal of prior plan by the Ninth Circuit in *In re Plant Insulation Company*, Bankruptcy Court, N.D. Cal. Case No. 09-31347-TC. (2014)
- Obtained reversal of bankruptcy court confirmation order against insurer client in 524(g) asbestos bankruptcy proceeding for failure to grant the asbestos trust a majority ownership share in the reorganized debtor as required under 524(g). *In Re Plant Insulation Co.* (9th Cir. 2013) 734 F.3d 900 (9th Cir. No. 12-17466)
- Trial counsel for primary insurer in a four-week trial on contractual interpretation issues and medical issues related to trigger of coverage, obtaining favorable ruling on issue of first impression regarding scope of aggregate limits. (2012)
- Trial counsel for primary insurer in an eight-day plan confirmation trial in *In re Plant Insulation Company*, Bankruptcy Court, N.D. Cal. Case No. 09-31347 TC. Plan involved debtor with alleged asbestos-related liabilities of \$2 billion. Proceedings involved complex and novel issues under 11 U.S.C. Sec. 524(g). (2011)
- Obtained summary judgment on behalf of primary insurer in case involving allegations of breach of contract and bad faith based upon "damages" and reporting requirements. (2011)
- Trial counsel for primary insurer in a six-week coverage trial on defenses of waiver, judicial estoppel and unclean hands. (2009)
- Trial counsel for primary insurer in a six-week "missing policy" trial. (2008)
- Defended manufacturer of TFT-LCD panels in federal direct and indirect purchaser MDL antitrust litigation alleging price fixing in the TFT-LCD panel industry, including extensive work in e-discovery. (2007)
- Successfully defended appeal of order dismissing consumer-protection class action challenging collection of sales and use taxes on computer service contracts in California for national retailer. *In re Computer Service Tax Cases*, unpublished at 2007 WL 4926609 (Cal. App. 2007)
- Litigated breach of contract and warranty suit against electrical power component manufacturer brought by a publicly traded international manufacturer of wireless cellular communications products, seeking over \$100 million in alleged compensatory damages and more than \$1 billion in alleged lost profits and lost investment damages. (2007-2008)
- Successfully represented group of franchisees against \$95 million class action after substituting in to oppose terminating sanctions, which were granted against a co-defendant. (2006)
- Trial counsel for insurer in coverage trial regarding choice of law, duty to defend, allocation,

horizontal exhaustion, "collectible" insurance, and contribution issues and scope of declaratory relief allowed by California law. (2006)

Mr. Westfall served as a research attorney in the Law and Motion, Writs, and Receivers Departments of the Superior Court of California, County of San Francisco. During law school he was a member of the law review, and served as an extern to the Honorable Phyllis J. Hamilton of the U.S. District Court for the Northern District of California and the Honorable A. James Robertson II of the Superior Court of California, County of San Francisco.

Prior to law school, Mr. Westfall lived in China for three years, teaching University and High School students American and English Literature, History and English composition.

## **PUBLICATIONS**

### **INSURANCE POSTINGS**

- Meleski v. Estate of Hotlen, No. C080023, 2018 WL 6241504 (Cal. Ct. App. Nov. 29, 2018): Insurer Defending The Estate Of Its Deceased Insured Under Probate Code May Be Liable For Costs Awarded Under Code Of Civil Procedure Section 998 12.04.2018
- In re TFT-LCD (Flat Panel) Antitrust Litigation, 2016 WL 4547357 (9th Cir. Sept. 1, 2016): California's Mediation Privilege Does Not Apply To Preclude Claims Arising From Breach of a Mediated Settlement When Federal Claims Are At Issue 11.14.2016

### **INSURANCE NOTES**

- Flash Update: California Supreme Court Hears Oral Argument On Independent Counsel's Obligation Regarding Billing 06.01.2015
- Denial Of Summary Judgment On Procedural Basis Does Not Establish A Duty To Defend 02.10.2015
- Tripartite Attorney-Client Privilege Protects Communications From Disclosure To Third Party 02.13.2013

## **ADMISSIONS & PROFESSIONAL ASSOCIATIONS**

- State Bar of California
- Bar Association of San Francisco, Member