BIRD MARELLA LLP

BIRD • MARELLA • RHOW • LINCENBERG • DROOKS • NESSIM

Lawyers and Law Firms

Since the firm's inception, Bird Marella has been the "go-to" law firm for international, AmLaw100, regional, and boutique law firms and individual lawyers needing advice and representation in matters concerning their practice. A testament to this long-standing reputation, name partner Mark Drooks is recognized in the elite Band 1 tier of Law Firm Defense (USA – Nationwide) by legal ranking guide *Chambers USA*.

Overview

We represent legal professionals, partnerships and firms at trial, in arbitration and mediation, and at the pre-litigation stage of disputes. We have represented numerous law firms, from global firms to small boutiques, involving claims brought by their clients including malpractice claims, breach of fiduciary duty claims, billing disputes and related claims for fraud or other torts, whether such claims arise in a litigation or transactional engagement. We also regularly represent lawyers and law firms that become targets of opposing parties in litigation, including those that face disqualification motions.

We have deep experience in the substantive and procedural issues (litigation privilege, anti-SLAPP, agent's immunity, etc.) that arise when a lawyer or law firm is named as a party in litigation. In addition to representing firms after such disputes are filed, we often are called on to provide advice to law firms regarding issues that arise during their ongoing representations of clients. In most of our malpractice defense matters, a law firm or lawyer directly engages our services, as opposed to an insurance carrier. However, we enjoy ongoing working relationships with three of the largest insurers providing specialized coverage in the representation of lawyers, including Attorneys' Liability Assurance Society (ALAS). We are gratified by ALAS's repeated recommendation of us to its member firms for matters arising in Southern California.

We regularly represent law firms or lawyers who are in disputes arising from law firm dissolutions, and partner and partner group departures. When litigation involves law firm dissolutions or partner departures, the assignment of value to partnerships and contingency cases presents specialized challenges. Bird Marella regularly identifies and analyzes critical law firm measurements of these

intangibles and handled a recent case resulting in the leading published opinion in California in this area.

Finally, when attorneys become involved as targets of criminal investigations, they regularly engage us to take advantage of our depth of experience in representing lawyers and in defending criminal matters.

We value the confidence of our peers in matters that pose threats to professional reputations. We are called on to represent our peers because our attorneys are viewed as statesmen within the legal community. We have actively participated in preeminent bar and bench organizations, including the Ninth Circuit and Central District lawyer committees, presidential judicial selection committees, and as chairs of various ABA committees at the national, state and regional levels.

Experience

Obtained Complete Malpractice Defense Jury Verdict and Fees: We successfully represented an international law firm and two of its partners in a three-week jury trial. The defendants were accused of mishandling a “no contest” issue in an otherwise highly successful representation. At trial, the jury found for our side on all claims and awarded an amount to the client law firm on its counter-claim for fees more than it was contractually entitled. The jury supported our theory that described the extremely valuable legal services provided by the lawyers to their former clients.

Successfully Defended Law Firm In Malpractice Claim Involving Probate Issues: Our client, a prominent Los Angeles law firm, faced malpractice claims arising out of the estate planning structure developed for a wealthy family. After extensive litigation, the trial court granted our summary judgment motion in full, and the Court of Appeal affirmed in full.

Affirmed Trial Win on Value of Dissolved Firm: The firm established at trial, on behalf of a departing principal, the departing lawyer’s right to his share of law firm accounts receivables as collected. His former partners had substantially discounted the value of the receivables, and claimed the breakup of the small law firm made its receivables essentially worthless as of the breakup date. The

decision was affirmed on appeal and established the leading published case on the methodology for valuing a law firm's receivables for dissolution purposes.

Defended Law Firms on Harassment and Discrimination Claims: We have defended several international law firms against claims of gender or age discrimination and sexual harassment brought by former associates.

Settled Legal Malpractice Claims Days Before Trial: In our representation of a local university as plaintiff, we pursued a malpractice claim against a now-dissolved Los Angeles law firm concerning eminent domain issues. One week before the jury trial, the case settled favorably for our university client.

Filed Amicus Briefs for Bar Associations on Malpractice Punitive Damages: We were engaged as counsel to file an amicus brief on behalf of the Los Angeles County Bar Association, Orange County Bar Association and Beverly Hills Bar Association in connection with a case under consideration by the California Supreme Court. The court held, as argued in our brief, that a legal malpractice plaintiff cannot seek damages comprised of punitive damages that it might have recovered but for the alleged malpractice. *Ferguson v. Lieff, Cabraser, Heimann & Bernstein*, 30 Cal. 4th 1037 (2003).

Prevailed in Malicious Prosecution Defense, Affirmed on Appeal: We defended a national law firm in a malicious prosecution lawsuit arising from a copyright infringement matter our clients pursued on behalf of a global luxury goods manufacturer. Our successful defense included an anti-SLAPP motion, and the favorable trial court decision was upheld on appeal, with an award of substantial

attorneys' fees on behalf of our client.

Achieved Settlement on Civil Claims and Avoided Sanctions: Our client, a national law firm, faced claims arising out of the failure of a prominent savings and loan association. No regulatory sanctions were issued against our client and civil litigation was settled on favorable terms.

Convinced Government Not to Charge Attorney Under Investigation: We represented an attorney in a "capping" investigation and persuaded the government to decline prosecution of our client.

Settled Conflict of Interest Charges for Firm: Defended a national law firm in a malpractice action connected to alleged conflicts of interest. We procured a confidential settlement that included issuance of a signed letter from the plaintiff acknowledging that there had been no conflict of interest. We also recovered unpaid legal fees for our client.

Obtained Jury Damages Award in Law Firm Litigation: We represented a client against a national law firm in which we obtained a jury verdict awarding substantial damages to our client.

Prevailed in Contingency Fee Dispute: We went to trial, on behalf of a prominent trial attorney and his

firm, in connection with claims by co-counsel that they were entitled to share a substantial portion of a contingent fee. The court ruled in favor of our client.