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Donald Falk has a general appellate practice with specific expertise in class actions—the American Lawyer recognized him as “California’s class action killer”—and significant experience in antitrust, patent law, torts, contracts, tax, arbitration, federal preemption, constitutional law (commercial speech, Commerce Clause, and takings), administrative law, and California’s Unfair Competition Law (Section 17200). Don’s oral arguments include victories in the U.S. Supreme Court and the highest courts of California, New York, Texas, and Maryland, and dozens of appearances in intermediate federal and state appellate courts. His recent successes include a unanimous California Supreme Court decision declining to impose a tort duty in *Verdugo v. Target Corporation*; and the Ninth Circuit’s decisions in *Mazza v. American Honda Motor Co.* (limiting nationwide class actions asserting state-law claims) and *Rock River Communications v. Universal Music Group* (reinstating an intentional interference claim involving the rights to early Bob Marley recordings).

SELECTED EXPERIENCE

AT&T Mobility LLC v. Concepcion (U.S. Supreme Court)

AT&T Mobility’s customer agreements require disputes to be resolved on an individual basis in arbitration.

Brinker Restaurant Corp. v. Superior Court (California)

Plaintiffs filed a putative class action seeking monetary damages for alleged violations of a California law requirement meal and rest breaks for employees.

Dietz v. Cypress Semiconductor Corporation (Tenth Circuit)

We persuaded the Tenth Circuit to reverse the Department of Labor’s Administrative Review Board in an employee whistleblower action under Sarbanes Oxley.

First National Bank of Wahoo v. Charvat (U.S. Supreme Court)

Jarek Charvat used the defendant banks’ automatic teller machines after accepting an on-screen notice that he would be charged a fee before being allowed to complete his transaction.

In re Google Referrer Header Privacy Litigation (Ninth Circuit)

Google successfully defended the district court's approval of a class-wide settlement in this Internet privacy case.

Iskanian v. CLS Transportation Los Angeles, LLC (California)

We filed an amicus brief and presented oral argument contending that California laws restricting individual arbitration of employment claims are preempted by the Federal Arbitration Act, among other issues.

Kilgore v. KeyBank, N.A. (Ninth Circuit)

We filed an amicus brief and presented oral argument before the en banc court, arguing that the Federal Arbitration Act preempts California's state-law rule prohibiting arbitration of public-injunction claims.

Local Search Ass'n v. City and County of San Francisco (Ninth Circuit)

We represented Yellow Pages publishers in a First Amendment challenge to a San Francisco ordinance outlawing the distribution of Yellow Pages directories without the recipient's prior or contemporaneous consent.

Massachusetts v. Microsoft Corp. (D.C. Circuit)

The United States, along with numerous states, brought antitrust complaints under Sections 1 and 2 of the Sherman Act against Microsoft Corp. relating to its Windows operating system.

Mazza v. American Honda Motor Co. (Ninth Circuit)

Several car buyers brought a class action against American Honda Motor Company. The complaint asserted claims for unfair competition, false advertising, and unjust enrichment under California law.

McArdle v. AT&T Mobility LLC (Ninth Circuit)

An AT&T customer sued AT&T on behalf of a putative class, claiming that the company violated consumer protection statutes by failing to adequately disclose certain charges.

Morgan v. AT&T Wireless Services, Inc. (California)

Customers of AT&T Mobility agreed that any disputes between the parties would be resolved by arbitration on an individual basis, thus barring class actions.

Rock River Communications v. Universal Music Group (Ninth Circuit)

In this case, our client, Rock River Communications, issued "Roots, Rock, Remixed," an album of remixes of early Bob Marley recordings that had been produced before the advent of federal copyright protection for phonorecordings.

Saint Alphonsus Medical Center v. St. Luke's Health System (Ninth Circuit)

Section 7 of the Clayton Act prohibits a merger when its effect “may be substantially to lessen competition, or to tend to create a monopoly.”

Simon v. San Paolo U.S. Holding Co. (California)

In this seminal decision, the California Supreme Court embraced several arguments advanced by Mayer Brown in its amicus brief for the Chamber of Commerce.

Spokeo, Inc. v. Robins (U.S. Supreme Court)

Under Article III of the U.S. Constitution, a plaintiff must allege that he or she has suffered an “injury-in-fact” to establish standing to sue in federal court.

Toyota Motor Corp. v. Choi (U.S. Supreme Court)

Vehicle purchase and lease agreements often contain arbitration provisions.

Verdugo v. Target Corp (California)

In this action, plaintiffs alleged that Target had a duty to have an automatic external defibrillator (AED) available in its stores in case a customer underwent sudden cardiac arrest while shopping (as had plaintiffs’ daughter/sister).

Wal-Mart Stores, Inc. v. Dukes (U.S. Supreme Court)

Several female employees of Wal-Mart brought a putative class action against their employer, alleging that they were the victims of sex discrimination and seeking back-pay.