



## David Jacobs

Member of the Firm

### Los Angeles

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**DAVID JACOBS** is a Member of the Firm in the Litigation and Employment, Labor & Workforce Management practices and is based in the firm's Los Angeles office, where he serves as the Los Angeles Managing Shareholder for Epstein Becker Green. Mr. Jacobs represents clients nationwide. He concentrates his practice on business litigation, employment law, health care law, intellectual property, and First Amendment issues.

Mr. Jacobs represents, and has represented, clients in a wide range of industries, including health care, publishing and entertainment, financial services, high-tech, and the food market industry.

Mr. Jacobs also counsels and litigates in all aspects of employment law, including race, sex, age and disability discrimination, sexual harassment, and wrongful termination.

Mr. Jacobs is equally experienced in litigating complex business disputes involving:

- Breach of fiduciary duty
- Breach of indemnity agreements
- Securities
- Real estate
- Fraud
- Breach of contract
- Commercial leases
- Corporate restructuring issues
- California health care issues, including but not limited to disputes over risk pool arrangements and other types of disputes between health care providers and disputes between health care plans and providers

In addition to appearing before federal and state courts, Mr. Jacobs has represented clients in numerous AAA and JAMS arbitrations on such diverse matters as breach of contract, anti-competitive conduct, real estate transactions,

trade secret theft, fraud, and corporate dissolution, and has represented EBG financial services clients in FINRA arbitrations.

Recent client successes include the following:

- Successful motion to dismiss a federal putative class action in a case of first impression (2018)
- Successful motion to dismiss a federal putative class action involving financial services (2018)
- Successful motion for summary judgment brought in federal court in a complex real estate transaction (2017)
- Reversal of a plan review committee's decision to terminate a participating physician group services agreement (2014)
- Arbitration decision in favor of a health care plan, against a provider, for breach of contract (2010)
- Trial decision in favor of a supermarket chain, on a contract dispute and commercial unlawful detainer (2010)
- TRO and preliminary injunction on behalf of a health care plan, against a provider, for balance billing plan members (2007)

A part of Mr. Jacobs' practice, he is devoted to counseling and representing magazine and book publishers and other media companies on issues such as:

- Copyright
- First Amendment rights (defamation, reporter's privilege and access, pre-publication review, and privacy/right of publicity)
- Trademarks
- Unfair competition (Lanham Act and state unfair competition laws)
- Artist/manager disputes
- Contracts
- Trade secret theft
- Restrictive covenants

Examples of reported decisions in the cases Mr. Jacobs has litigated include the following:

- *Mile Marker, Inc. v. Petersen Publishing Co., Inc.*, 811 So.2d 841 (Fla. 4th DCA 2002) (successful defense of *Petersen's 4Wheel & Off-Road* magazine against a claim of defamation over a product comparison article)
- *Petersen Pub'g Co., Inc. v. Blue Gravity, Inc.* (injunction involving Trademark/Cybersquatting issues) (D.N.J.) (*E-Commerce Law Weekly*, Vol. 2 No. 2, pg. 36, January 11, 2000)
- *International Film Exchange v. Corinth Films, Inc.*, 621 F.Supp. 631 (S.D.N.Y. 1985) (copyright issues involving classic film *The Bicycle Thief*)
- *Maitland v. Columbia Picture Industries, Inc.*, 91 A.D.2d 879 (1st Dept. 1982) (affirming dismissal after trial of idea theft claim over T.V. series *Fantasy Island*)

- *Elsmere Music, Inc. v. National Broadcasting Co., Inc.*, 482 F.Supp. 741 (S.D.N.Y. 1980), *aff'd*, 623 F.2d 252 (2d Cir. 1980) (copyright issue involving *Saturday Night Live* parody)
- *Hoehling v. Universal City Studios, Inc.* 76 CV. 4269, *aff'd*, 618 F.2d 972 (2d Cir.), *cert. denied*, 449 U.S. 840 (1980) (copyright issue involving motion picture *The Hindenburg*)

Mr. Jacobs also served from 2009 to 2012 as Co-Chair of the Employment Law Committee of the Media Law Resource Center.

### **Education**

- New York University School of Law (LL.M., 1977)
- Loyola Law School (J.D., 1976)
- University of California (B.A., 1973)
  - Los Angeles, *with great distinction*, *Phi Beta Kappa*

### **Court Admissions**

- Supreme Court of the United States
- California Federal Courts
- U.S. Court of Appeals for the Second Circuit
- U.S. Court of Appeals for the Ninth Circuit
- U.S. District Court, District of Colorado
- U.S. District Court, District of Columbia
- U.S. District Court, Eastern District of New York
- U.S. District Court, Northern District of Illinois
- U.S. District Court, Southern District of New York

### **Bar Admissions**

- California
- District of Columbia
- New York

### **Practice Areas**

- Business Litigation
- Corporate and Securities Litigation
- Employment Litigation
- ERISA and Benefit Plan Litigation

- First Amendment
- Insurance Coverage and Reinsurance Disputes
- Intellectual Property Litigation
- Trade Secrets & Employee Mobility

### **Industries**

- Hospitality
- Health Care and Life Sciences Industry
- Financial Services
- Technology, Media & Telecommunications

### **Memberships**

- American Bar Association
- Association of Business Trial Lawyers
- Beverly Hills Bar Association
- Media Law Resource Center
- State Bar of California