



# David S. Harris

OF COUNSEL

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## David's Biography

With nearly fifteen years of experience, David Harris focuses his practice on complex commercial litigation, including intellectual property, class action defense, antitrust, and employment matters in state and federal courts and arbitrations.

David is an accomplished lawyer who has earned a reputation for presenting complicated legal and factual issues in a concise and easy-to-understand manner. He has an extraordinary track record of winning “on the papers.” For example, he helped secure a complete defense victory in a federal antitrust case by showing on summary judgment that the plaintiff had not suffered antitrust injury or damages; helped win an “unwinnable” personal injury case on summary judgment based on the little-known “completed and accepted” doctrine; and litigated a malicious prosecution case until the defendants gave up and stipulated to judgment.

In just the past several years alone, David won summary judgment in two cases (one in Texas federal court and another in California state court); won summary adjudication against a plaintiff’s strict products liability and negligence claims; successfully moved to decertify a consumer class action; and convinced the plaintiff in a proposed consumer class action to dismiss her case after taking her deposition and presenting compelling expert opinion showing her claims lacked scientific merit.

David has successfully defended and secured many of his victories on

## Education

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Yale Law School, J.D., 2006

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University of California, Berkeley, B.A.,  
*with highest honors*, 2003

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## Bar Admissions

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Admitted to the State Bar of California

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United States Court of Appeals for the  
Ninth Circuit

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United States Court of Appeals for the  
Fifth Circuit

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United States District Court for the  
Central District of California

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United States District Court for the

appeal. In one such case, he prepared the winning Ninth Circuit brief on an issue of first impression regarding the forum non conveniens doctrine. In another, he helped convince the Ninth Circuit to uphold the trial court's dismissal of an antitrust action on the grounds that the plaintiff had failed to show cognizable injury under the federal antitrust laws. David also prepared and argued an appeal that led the Ninth Circuit to reverse the lower court's summary judgment order and hold that the client was not contractually liable for deaths and certain personal injuries allegedly cause by the client's products. Most recently, he briefed, argued, and obtained a complete victory for his client, a national airline, in an appeal in the California Court of Appeal regarding, among other things, the Airline Deregulation Act's express preemption clause.

In addition to working with Willenken as Of Counsel, David also maintains and runs his own boutique litigation firm (David S. Harris, P.C.), which he founded in early 2022. Before that, David honed his practice at law firms in Los Angeles and Washington, D.C. He began his legal career as a law clerk for Chief Justice Dana Fabe of the Alaska Supreme Court.

David lives in Los Angeles with his wife and two children. David and his wife are active in community affairs, including their synagogue, the local school district, and a number of non-profit organizations, including the [Law Project of Los Angeles](#), which provides legal advocacy for system-involved workers, families, and children.

## Cases

- Prepared and successfully argued an appeal to the Ninth Circuit regarding a district court's summary judgment order that misinterpreted the parties' asset purchase agreement. In 1996, the client sold its swimming pool construction business to the plaintiff. Decades later, the plaintiff filed suit alleging that the client was liable under the terms of the asset purchase agreement for all third-party asbestos-related personal injury claims, no matter when those claims arose, so long as the underlying asbestos exposure occurred prior to the sale of the swimming pool business. After oral argument, the Ninth Circuit issued a memorandum decision in which it held that the client was not liable for any wrongful death or loss of consortium claims that arose after the client sold its business.
- Won summary judgment against the plaintiff's claims in the Southern District of Texas. The plaintiff alleged that the client—an international petroleum services provider—breached a confidentiality agreement and engaged in fraud in connection with a possible acquisition of plaintiff's business, causing alleged damages in excess of \$12 million. On summary judgment, David disproved key elements of each of the plaintiff's claims, resulting in a complete defense victory and leaving

Northern District of California

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United States District Court for the Southern District of California

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United States District Court for the Eastern District of Texas

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United States District Court for the District of Nevada

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## Practice Areas

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Appellate Litigation

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Complex Commercial Litigation

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Class Action Defense

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Intellectual Property Litigation

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only the client's counterclaims for trial.

- Prepared and successfully argued a motion to decertify a consumer class action brought against the client—the world's largest independent petroleum refiner. Prior to David's involvement in the case, the district court had certified a class of California purchasers of a certain branded gasoline. David developed a strategy aimed at showing, through further discovery and expert testimony, that the claims should not have been certified. He then prepared and argued the motion that resulted in the district court de-certifying the class, which reduced the client's potential monetary exposure from a claimed \$60 million to less than one hundred dollars. The district court also granted key aspects of a motion for summary judgment, disposing of the plaintiff's claim for injunctive relief.
- Won summary adjudication against all of the plaintiff's monetary claims in a dispute between the plaintiff and his former employer. The plaintiff sought millions of dollars of damages based on the allegation that the client had violated the California Labor Code and Business & Professions Code by failing to timely pay the plaintiff millions of dollars he claimed to be owed because of and upon his termination. David established as an "undisputed fact" that the plaintiff's key allegation was false, leading the trial court to summarily dismiss the plaintiff's damages claims.
- Successfully obtained dismissal of a proposed consumer class action in which the named plaintiff alleged that the client, the leading manufacturer and distributor of energy shots, mislabeled its products and misled consumers into believing those products were "all natural." David helped devise and implement a litigation strategy that resulted in the plaintiff making several key admissions during her deposition. He also marshalled expert opinion testimony that refuted several of plaintiff's allegations concerning the composition of the products at issue. Following disclosure of these opinions and faced with her own testimony, the plaintiff voluntarily dismissed with prejudice the entire case.
- Paved the way for a complete defense victory at trial on behalf of a national event producer. The plaintiff alleged that it had acquired an ownership interest in David's client years earlier. The plaintiff sought to exclude from trial damaging evidence that David uncovered during discovery, filing nearly a dozen motions in limine. David successfully opposed those motions, while simultaneously obtaining in limine orders excluding much of plaintiff's "key" evidence and trial theories. David's client obtained a complete trial verdict and was also awarded its attorney's fees and costs.
- Prepared the winning Ninth Circuit brief on an issue of first impression. After the district court granted a motion to dismiss the plaintiff's claims against the client—a large Mexican exporter of produce to the U.S.—the plaintiff appealed. The plaintiff-appellant argued that the trial court, among other things, applied the wrong legal



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standard when dismissing the case. The Ninth Circuit rejected that argument in favor of the argument that, when determining a motion for forum non conveniens, the district court should compare the convenience of the alternative foreign forum with the specific U.S. forum in which plaintiff sued, not with the United States as a whole.

- Helped obtain a complete defense victory in a personal injury case for one of the world's largest software companies. The plaintiff claimed he suffered crippling injuries caused by the alleged negligence of a company that the client acquired in 2010 and sought millions of dollars in damages. David and the trial team obtained summary judgment against the plaintiff's claims (and the co-defendants' crossclaims for indemnity) by showing that the seldom-used "completed and accepted" doctrine applied in the case.
- Helped secure a complete defense victory for the client—the leading designer and seller in the United States of "mega-coasters" and cutting-edge theme park rides. The plaintiff sought nearly \$20 million in damages based on allegations that the client was a monopolist that had unlawfully obtained and enforced its patents for a magnetic braking system. David and the trial team won summary judgment and then defeated plaintiff's appeal to the Ninth Circuit.
- Obtained dismissal of a lawsuit aimed at preventing his clients, the heirs of a world-famous musician, from securing ownership of their father's copyrights. The district court agreed with David that the plaintiff did not have standing to bring certain claims and that the plaintiff's remaining claims were barred by California's anti-SLAPP statute. As a result, the district court ordered the plaintiff to pay the attorneys' fees that David's clients incurred in defending the litigation.



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