

# Carl L. Blumenstein

Partner | San Francisco

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Carl Blumenstein specializes in complex business litigation, primarily insurance coverage, commercial and employment law disputes.

For more than 30 years, Carl has provided counsel and representation to clients in trial and appellate courts and in myriad disputes. On behalf of policyholders, he has recovered tens of millions of dollars from insurance companies for environmental, employment, and intellectual property matters. He represented one of the world's leading manufacturers of TFT-LCD panels in a high-profile criminal and civil antitrust proceeding, which attracted national media attention. He also represents private and public entities and individuals in employment disputes, real estate lease disputes, constitutional and privacy disputes.

Over nearly two decades, Carl, a user-friendly neutral, has mediated more than 100 civil disputes. He serves on the mediation panel for the United States District Courts in San Francisco and Sacramento, and is on court mediation panels for numerous state superior courts.

Carl clerked for the Honorable Charles A. Legge, District Judge of the United States District Court in San Francisco, and also for the Honorable Daral G. Conklin, United States Magistrate for the District of Hawaii.

## EXPERIENCE

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### MEDIATION EXPERIENCE

In serving as a mediation neutral, Carl draws on his broad and extensive experience and familiarity with the dynamics of resolving all types of disputes. Regardless of the substantive dispute, he is able to facilitate settlement discussions so that parties can be meaningfully heard and work together to reach mutually satisfactory resolutions. Carl is available for in-person and virtual mediation. Areas of specialty include:

- Employee-employer disputes
- Insurance coverage
- Real estate and leases
- Commercial and vendor disputes

## LITIGATION EXPERIENCE

**Goleta Water District v. Slippery Rock Ranch, LLC.** Represented public water district in high-profile water rights dispute involving attempted private appropriation of water resources.

**Associated Industries Ins. Co. v. Foothill/Eastern Transportation Corridor Agency.** Representing public agency in multi-million dollar insurance coverage dispute arising from class action alleging privacy violations.

**Shipman v. Darfon Electronics Corp.** Represents manufacturer of illuminated computer keyboards in patent license dispute.

**Young v. CEP America-California.** Represented group of emergency room physicians in alleged statewide class action and PAGA action for wage and hour violations.

**SF Urban Forest Coalition v. San Francisco County Transportation Authority.** Successfully defended state agency against efforts to subject it to local regulation.

**In re TFT-LCD Antitrust Litigation.** Represented global manufacturer of TFT-LCD panels in complex multi-district antitrust litigation and related opt-out and state enforcement proceedings. Defended client in five-week trial against national retailer. The cases raised cutting-edge issues that resulted in pivotal decisions by circuit courts and U.S. Supreme Court.

**Aerojet-General Corp. v. Fidelity & Casualty Ins. Co.** Represented policyholder in action seeking reimbursement of defense and indemnity expense in connection with allegations of chemical releases arising from TCE (and other VOCs), in addition to NDMA and perchlorate exposure at, and near, Azusa site.

**Aerojet-General Corp. v. Transport Indem. Co.** (17 Cal. 4th 38 (1997)). Represented policyholder seeking reimbursement of defense and indemnity expense in connection with historical chemical releases at Sacramento site. Obtained landmark appellate decision, holding that investigative expenses are recoverable as defense expenses.

**Retail Digital Network, LLC v. Prieto** (9th Cir. 2017). On behalf of California craft breweries, prepared successful amici curiae brief in en banc rehearing, resulting in decision that rejected First Amendment challenge to tied house statutes.

**LSI Corporation.** Successfully defended high-tech client in an alleged lease agreement breach. After prevailing on summary adjudication motion, case proceeded to trial, and client obtained affirmative recovery.

**American States Water Co. v. Aerojet-General Corp.** Defended aerospace manufacturer against utility's claims arising from alleged chemical contamination of groundwater.

**Children's Hospital and Research Center, Oakland v. WCAB, 2010 Cal.App. Unpub. LEXIS 8027.** Successfully invoked statutory and constitutional privacy protections to obtain Court of Appeal decision that protected confidentiality of medical files of HIV-infected children.

**Photon Dynamics, Inc. v. Nat'l Union Fire Ins. Co.** Filed lawsuit against D&O and EPL insurers and successfully recovered defense expenses after high-tech client obtained jury verdict on securities and misrepresentation claims in lawsuit by former officer.

**City of Richmond v. Levin Enterprises.** Pursued insurers who provided coverage dating back over 40 years and successfully obtained nearly complete recovery of settlement and defense expenses incurred by client—all without filing litigation.

**Trend Micro.** Obtained insurance reimbursement for litigation expenses, without filing lawsuit, in high-stakes patent infringement litigation for a software manufacturer.

**Title insurance matter.** Successfully asserted owners' rights and obtained a settlement from the title insurer, without filing suit, when owners of a historically significant live-work space learned that the title policy had failed to disclose a 100-year old deed that threatened rights to access the property.

## INSIGHTS

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### PUBLICATIONS

- Co-Author, "The Importance of Insuring Against Cyberattacks," *California Health Law News*, Fall 2016
- Author, "Navigating the Product Liability Coverage Obstacle Course," *Law360*, 10.29.2015
- Co-Author, "When Antitrust Disputes Loom, Businesses Need to Make Savvy Arbitration Decisions," *Today's General Counsel*, 01.01.2014

### SPEAKING ENGAGEMENTS

- Speaker, "Additional Insurance Coverage," Los Angeles Chapter of Risk and Insurance Management Society Monthly Education Event, Pasadena, CA, 11.14.2018
- Speaker, "Ethical Pitfalls for Counsel on the Campaign Trail," 2018 Annual California Political Attorneys Association Retreat, Olympic Valley, CA, 09.15.2018
- Panelist, "Are Adjudications an Alternative? How SGMA and Groundwater Adjudications Will Work Together or Not," Association of California Water Agencies' 2018 Spring Conference & Exhibition, Sacramento, CA, 05.10.2018
- Speaker, "Bulletin from the Cyber-Threat Frontlines: Are You Covered?," California Association of Health Plans' 32nd Annual Conference, Huntington Beach, CA, 10.10.2017
- Speaker, "A Technical Dissection of the Water Rights Lawsuit," Urban Water Institute's 24th Annual Water Conference, San Diego, CA, 08.18.2017
- Speaker, "Insurance for Cyber Threats to the Healthcare Industry: Do you have what you need (and what to do if you don't?)," California Society for Healthcare Attorneys 2016 Annual Meeting & Spring Seminar, Monterey, CA, 04.09.2016
- Speaker, "Is Your Policy Panacea or Placebo," Silicon Valley Association of General Counsel's 27th Annual All Hands Meeting, Santa Clara, CA, 10.28.2015
- Speaker, "Dodging Bullets at the O.K. Corral: How to Investigate and Resolve the Many Issues that Arise in a Questionable Jewellery Loss Without Resorting to Cowgirl Tactics or Litigation," 2014 Malta Conference, St. Julians, Malta, 10.24.2014

## COMMUNITY & PROFESSIONAL

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- Appointed mediator to the United States District Court, Northern District of California, 2019

## HONORS

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- AV Preeminent® Peer Review Rated by Martindale-Hubbell
- Selected to the Northern California Super Lawyers list for 2004, 2011-2018

## PRACTICES

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- Insurance Recovery & Counseling
- Litigation
- Water Law
- Employment
- Class Actions & Multi-District Litigation
- Commercial Litigation
- Trial Practice
- Water Litigation

## EDUCATION

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University of California, Berkeley School of Law, J.D., 1986

Princeton University, A.B., 1982, *cum laude*

## ADMISSIONS

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California

U.S. Court of Appeals, Ninth Circuit

U.S. District Court, Central District of California

U.S. District Court, Eastern District of California

U.S. District Court, Northern District of California

U.S. District Court, Southern District of California

U.S. Supreme Court