

quinn emanuel trial lawyers
quinn emanuel urquhart & sullivan, llp

**Representative Matters Where Quinn Emanuel
Was Substituted In As Trial Counsel**

We are often retained to do the final pre-trial and trial work in cases in which another firm has represented the client up until that point. Often it will be to the client's advantage to keep previous counsel involved because of the significant investment in their knowledge of the case. We take a lot of pride in our record of being able to work efficiently and collaboratively with previous counsel in such circumstances.

RECENT REPRESENTATIONS:

- We were retained during trial to assume the role of lead counsel in a case in which a charity claimed that a wealthy benefactor who had previously donated more than \$4 million to the charity had pledged to donate \$18 million to underwrite a construction project before the benefactor died shortly after being diagnosed with cancer. After a multi-week bench trial, the court found that the charity had not proven the pledge by a preponderance of evidence and issued a decision in our client's favor.
- We recently defended **Zurich Insurance Company** and several of its subsidiaries in a trial in San Francisco against charges Zurich committed fraudulent transfers in connection with the 1995 recapitalization of Home Insurance Company by Zurich entities. Plaintiffs sought over \$10 billion in damages they claim were incurred because Home was unable to pay their insurance claims eight years after the transaction. Zurich appointed Quinn Emanuel as lead counsel shortly before trial, but we continued to work successfully with co-counsel from a large New York firm. A decision from the bench trial is expected next year.
- Brought in six months before trial to defend **Google's** AdSense for Content and AdSense for Mobile Online advertising products against a claim of patent infringement brought by Function Media, we won unanimous jury verdict on both non-infringement and invalidity in the Eastern District of Texas.
- Less than a month before the hearing date, we were retained to conduct an arbitration of a slander claim asserted against business entities associated with **Dr. Henry T. Nicholas** by one of Dr. Nicholas' former assistants. The plaintiff was also a key witness in a pending federal criminal investigation involving Dr. Nicholas. After a two-week arbitration, we obtained a defense ruling rejecting plaintiff's contention that he was slandered by alleged comments characterizing a settlement demand as extortionate. Through aggressive cross-examination, we discredited the plaintiff as a witness in the government's criminal investigation, setting the stage for dismissal of the criminal charges six months later.

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Prior results do not guarantee a similar outcome.

- After years of previous litigation, we were retained to represent **Micron Technology** at trial, in partnership with co-counsel, in its long running battle against Rambus in a patent case arising out of Dynamic Random Access Memory ("DRAM") technology. The U.S. District Court of Delaware trifurcated the trial into three phases—the "unclean hands" phase, the "patent" phase and the "conduct" phase. In the unclean hands phase, the Court, following a five-day bench trial, issued a written opinion finding that Rambus spoliated evidence and declared the patents in the suit unenforceable.
- We represented **Kimberlite Corporation** and its **Chief Executive Officer** in a suit by Kimberlite's former President and Chief Operating Officer arising out of a transaction whereby Kimberlite was sold to its employees through an Employee Stock Ownership Program ("ESOP"). The plaintiff asserted numerous claims, including breach of employment contract, breach of partnership agreement, breach of fiduciary duty, fraud, wrongful termination, and breach of certain contractual obligations arising out of the ESOP transaction. We were substituted as counsel several months after the action commenced. We immediately asserted cross-claims against the plaintiff for breach of fiduciary duty and misappropriation of corporate assets, and proceeded to quickly obtain several tactical victories in connection with discovery disputes. After obtaining key admissions from plaintiff in discovery, we successfully moved for summary judgment on plaintiff's breach of fiduciary duty and partnership-related claims, significantly narrowing the scope of the case. The remaining claims were tried to a jury in Fresno, California in the spring of 2009. After winning most of the 23 motions in limine we filed on behalf of our clients, a team of Quinn Emanuel attorneys tried the case over the course of six weeks. We elicited devastating testimony from numerous witnesses on both direct and cross examination throughout the trial. At the beginning of the seventh week of trial, the plaintiff proposed to settle the case and our clients accepted.
- We represented a **printing company** in a case it brought against a former employee and his new employer alleging misappropriation of trade secrets, breaches of fiduciary duty and interference with economic advantage. We were substituted in as counsel several months before trial. After a month-long trial straddling the holidays, we won a jury verdict for \$5.7 million in compensatory damages and over \$8 million in punitive damages.
- We had been brought in eight weeks before trial to defend a Silicon Valley **semi-conductor company** against breach of contract claims in a trial in Delaware. We obtained a defense judgment before the plaintiff rested its case.
- More than a week after trial began, after having no prior involvement in the case, we stepped in and assumed the role of lead trial counsel representing a Southern California **developer** of open-air "lifestyle" shopping centers against the nation's second largest mall developer. Our client had brought claims against the mall developer for interference with prospective business relations based on threats the mall developer allegedly made against a prominent nationwide restaurant chain to

discourage the chain from becoming an anchor tenant in our client's new shopping center across the street from the super-regional mall owned by the defendants. Over the next handful of weeks, we conducted most of the witness examinations, the closing argument, and the punitive damages phase of the trial. The jury awarded our client the full amount of compensatory damages requested -- \$74 million, and an additional \$15 million in punitive damages, for a total award of \$89 million. The mall developer is currently appealing the judgment.

- We represented a **leading mutual fund client** in litigation against Citibank relating to Citibank's sale to our client of Notes linked to Enron's credit. Less than six months after we substituted in as counsel, and with our summary judgment motions on liability pending, Citibank agreed to a mutually acceptable settlement.
- We were retained **Catalina Marketing Corporation** and its wholly owned subsidiary, Catalina Health Resource (collectively "Catalina") to take over as lead counsel in an action alleging infringement of U.S. Patent No. 6,240,394 ("the '394 patent") shortly before the Markman hearing. The '394 patent disclosed and claimed a novel method and computer system for generating targeted messages for pharmacy patients at the point of sale. Catalina alleged that LDM Group LLC's "Carepoint" product and related services infringed the '394 patent. The parties resolved the case informally pursuant to a confidential settlement agreement.
- We were retained one week prior to the commencement of a trial to represent **the founder of a major transportation company**, in a business defamation action against a former business partner who accused the founder of embezzling money from the shareholders. With just one week to learn the case, complete the defendant's deposition and prepare for trial, the jury returned a verdict in favor of our client, awarding compensatory and punitive damages.
- We represented **Motorola** in the retrial of a trade secrets case involving satellite vehicle tracking device technology, brought by the renowned plaintiff's lawyer, Willie Gary, on behalf of SPS Technologies. We were also hired for a sanctions hearing to determine the amount of attorney's fees that should be awarded to the Gary firm as a result of alleged misconduct by Motorola's original trial team. The Gary firm sought up to 2 billion in attorney's fees which included an hourly rate for Mr. Gary of between \$11,000 and \$900,000 according to SPS' experts. The court awarded Gary and his legal team only \$22.9 million -- a fraction of what they were seeking -- and denied their additional request for hundreds of millions in restitution and sanctions. We are appealing the decision and will be litigating the re-trial of the trade secrets case.
- We were substituted in as counsel (nine days before arbitration) to represent one of **Hollywood's super agents, Ed Limato**, against one of the industry's most powerful agencies. Limato worked for the ICM agency for 30 years. After removing Limato as co-president of the agency, ICM and Limato began discussions about his departure. ICM insisted that as a result of various contract renewals he was under

contract to remain with the agency until 2010. This would, in effect, side line him with a non-compete, and enable ICM to take his clients. We argued that because Limato's contract dated back to the mid-90's, it was bound by the California law known as the "seven year rule", which states that anyone who renders extraordinary or unique services cannot be bound to a contract for more than seven years. The arbitrator ruled in our favor, finding that Limato was free to leave ICM because his contract renewals exceeded seven years.

- We represented **RealNetworks** as a defendant in an internet software patent case brought by Ethos Technologies in Boston . We were hired as trial counsel after the close of fact discovery. After a 20-day trial, the jury found seven of the ten claims asserted against RealNetworks invalid, and all ten asserted claims not infringed, defeating a damages claim of over \$200 million. Jury verdicts of invalidity in such cases are exceedingly rare.
- We represented **two German nationals** who moved to Santa Barbara and sued media giant Bertelsmann AG and its former CEO. While working for Bertelsmann, these former executives had been the driving force behind the creation and development of AOL Europe, a joint venture between Bertelsmann and AOL. When Bertelsmann sold its interest in AOL Europe for \$6.75 billion, it refused to compensate plaintiffs. They asserted claims for breach of contract and breach of partnership agreement, among others. We obtained a **\$295 million verdict**. It was the seventh largest jury verdict in the nation that year.
- We represented **AOL's subsidiary, Tegic Communications**, in a patent suit against an infringing competitor. We were retained less than three months before the trial date, and after a three-week jury trial involving complex text input software technology, we defeated the attack on the validity of two Tegic patents and won a unanimous jury verdict of willful infringement and **\$9 million** in compensatory damages.
- We represented **Fox Entertainment** and related entities and individuals as trial counsel in connection with a copyright matter in which a jury trial was scheduled to being in the summer of 2007. Plaintiffs alleged that the hit movie “Dodgeball: a True Underdog Story” infringed the copyright in a screenplay that the plaintiffs had written. Before we took over the case, the court denied Fox’s motion for summary judgment and granted summary judgment dismissing several of Fox’s affirmative defenses. Two months after we took over, we obtained partial summary judgment in Fox’s favor and had the plaintiffs’ sole expert witness deemed unqualified to testify. We were able to obtain a very favorable settlement.
- We represented **IHOP** in a sexual harassment and wrongful discharge action. The plaintiff was an employee of an IHOP franchise and sued the franchise and the parent company for sexual harassment . On the eve of trial, the lawyer representing the defendants realized he had a conflict, as he could not represent both the franchise and the parent company. We subbed-in to represent the parent and argue that, even if

franchise was liable, the parent company should not be liable under agency principles. The case went to trial and the jury returned a complete defense verdict.

- We represented **Fox Broadcasting Company** when an individual plaintiff claimed the network had misappropriated the concept of a television program she alleges she worked on in conjunction with the network. After summary judgment was denied, we were retained to replace the network's prior counsel. We filed a renewed summary adjudication motion which was granted to eliminate several claims. At trial, and after opening statements and jury selection, the non-suit was granted in favor of our client. A verdict of \$52 million was returned against the co-defendant producers and distributors. It was affirmed on appeal.
- We represented **Zurich Insurance** in a case brought by the former President of one of Zurich's subsidiaries. We took over two weeks before the start of the jury trial. We conducted the voir dire, cross examined the plaintiff and did the closing argument. We obtained a complete defense verdict within two hours after closing and the trial judge awarded Zurich a substantial amount on its counterclaim.
- We represented **Space Systems Loral** in an age, race and national-origin discrimination case in the Northern District of California.. We were brought in less than one month before the trial. The case was tried to a jury for over two weeks, and we received a complete defense verdict after 20 minutes of deliberation.
- We represented **Fidelity and Casualty of NY**, a subsidiary of **CNA**, in a \$135 million coverage case. The case had been pending for 17 years, and we were hired one week before trial. The matter settled after one month of trial.
- We represented an individual plaintiff in a real estate development suit against his civil engineering company over their failure to properly and timely perform their contractual obligations, breach of an oral contract, and fraud. The case had been going on for about two years. Inexplicably, there had been no motion practice, so there were a number of significant legal issues that had never been briefed or litigated. We won on a breach of written contract claim and on a fraud claim, even though the written contract had a limitation of liability provision. The jury awarded a little more than \$4 million in damages.
- We represented **Packard-Hughes Interconnect Company** in an age discrimination, harassment, retaliation case. We were hired just before the close of fact discovery. The plaintiff, a 20-year employee of PHIC, alleged that she was demoted after she turned 50 and replaced with a much younger employee, and retaliated against in numerous ways for giving testimony against her former supervisor in a sexual harassment case. After a four week jury trial, the jury returned a complete defense verdict.
- We represented the **founder** of a **Los Angeles taxi company** in a business defamation case where the founder was forced to resign over accusations of

embezzlement. We were brought in a week before trial and received a plaintiff's award and a finding of punitive damages.

- We represented **Tufenkian Carpets** in a copyright infringement action. We were hired less than a month before trial to re-try a case that had previously ended in a mistrial. A federal judge issued an opinion in which he accepted every one of the arguments we asserted – even one that the judge at the earlier trial had rejected.
- We represented **Coastal Delivery Corporation** in the re-trial of a breach of contract claim concerning a multi-year Customs Service container examination agreement. We were brought in a week before trial, obtained a six-week continuance, won the jury trial and obtained a judgment of over \$3 million for our client which was paid in full without any appeal.
- We were retained, on the eve of trial, as counsel to **Terayon Communications Systems** and its various officers and directors to assume the defense of shareholder class and derivative actions. We successfully resolved matters after summary judgment argument and expert discovery.
- One of our partners was retained two months before trial by **Medo Industries** and **Pennzoil-Quaker State** in a two-patent patent infringement action related to various after-market automobile products. He obtained summary judgment on all claims asserted.