

# Daily Journal

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## TOP BOUTIQUES 2018

### LITIGATION

## Glancy Prongay & Murray LLP

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While Glancy Prongay & Murray made its name in securities litigation protecting the interests of classes of investors against fraudulent practices to the tune of multimillion-dollar suits, the firm has pressed into new areas of the law with great success.

One of its attorneys, Kevin F. Ruf, was involved in a landmark California Supreme Court case that has sent reverberations throughout the employment law world, *Dynamex Operations West, Inc. v. Superior Court* (Cal. 2018). Ruf gave the real parties' argument. In its opinion, the Supreme Court instituted the "ABC Test" for contractors, a strict test that determines if a worker is a contractor or an employee. The test will have a profound effect on the gig economy.

"We're all pretty proud to be on the right side, and it's a good reminder as to why we do this. Making good law for the rights of citizens of California and ensuring they're protected, it's a concrete benefit we've bestowed on people," said partner Robert V. Prongay.

The firm has also expanded its work in the intellectual property arena under the guidance of Jonathan M. Rotter, who joined in 2017.

"It's a broad-based IP practice that involves patents, copyright, trademark, and overlays with our class action practice," Rotter said. "We are also willing to take on these IP practices on a contingency basis, which is practical for clients but also requires us to evaluate cases carefully."

The firm currently represents a class of social media "influencers,"



Sam Diephuis / Special to the Daily Journal

From left, Casey Sadler, Joshua Crowell, Kara Wolke, Robert Prongay, Ex Kano S. Sams, Joseph Cohen, Kevin Ruf and Lionel Glancy of Glancy Prongay & Murray LLP.

who earn money by promoting brands on their profiles with links. The lawsuit claims that a website hijacked their ads, but substituted links which would give the website the influencers' profits. *Batra v. Pop-Sugar, Inc.*, 4:18-cv-03752 (N.D. Cal., filed June 25, 2018).

"The case sits at the intersection of digital media, intellectual property, and class actions," Rotter said.

Beyond the firm's successful expansion, its bedrock securities class action practice is as robust as ever. The firm was additional counsel in *Cyan, Inc. v. Beaver County Employees Retirement Fund*, 2018 DJDAR 2511 (Cal. App. 2nd Dist., Mar. 21, 2018), a case which went to the U.S. Supreme Court. In its opinion, the court held that the Securities Litigation Uniform Standards Act of 1998 does not preclude state courts from jurisdiction in class actions alleging violations of the Securities Act of

1933, a landmark opinion in securities litigation. The court also ruled that the former law does not empower defendants to remove such cases to federal courts.

"It's important in that individual plaintiffs can choose where they want to proceed with the case and not be forced to litigate where they don't want to," Prongay said. "It gives them the ability to strategically advance litigation if they see fit, which is what the statute provided for."

In addition, the firm has scored multimillion-dollar settlements nationwide on behalf of investors, safeguarding clients from corporate fraud.

"Generally we have pension funds, hedge funds. When people are harmed by fraud, they're seeing their savings, their retirement accounts impacted by these issues and we're trying to fight for them," Rotter said.

Both attorneys stressed the sheer

complexity of securities cases, which often involve failure to disclose information on the part of companies, leading to unforeseen catastrophic losses for their clients.

"Companies routinely withhold material information from investors, and it's something that's gone on for a long time. We're trying to hold people accountable and let the corporations know they have to fill in their investors," Prongay said.

"We have built an amazing team of incredibly intelligent and talented attorneys. It's a very complex area of law and has very complex factual areas," he added. "These aren't run-of-the-mill car accident cases, you have to set forth with great particularity that accounting fraud happened and educate the judge. We work with analysts and forensic accountants. You have to compete at a very high level to get results."

— Andy Serbe