



## Edward W. Racek

### Counsel

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Edward Racek has more than 18 years of experience representing and counseling clients in litigation relating to core areas of business operations, including real property, employment, contracts, data privacy, and fiduciary and regulatory compliance.

Edward represents clients in a diverse range of industries, including real estate, ESOPs, cosmetics and dietary supplements, insurance, healthcare, cannabis and CBD.

Edward brings a creative problem-solving approach with a focus on helping clients achieve their business and litigation goals through strategic planning, clear communication, and dignified yet aggressive pursuit of their interests. He oversees the day-to-day management of high-exposure cases through trial and appeals, and he regularly counsels clients on legal and regulatory matters to help them avoid litigation. His experience representing both plaintiffs and defendants is invaluable to developing winning strategies for clients.

In law school, Edward externed for the Honorable Phyllis J. Hamilton of the United States District Court for the Northern District of California, where he honed his legal writing skills and gained valuable insight into how the courts make decisions that affect our society and lives. While earning his Master's degree in healthcare law, Edward represented mental health patients in statutorily mandated hearings.

### **Education**

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- University of San Diego School of Law (LL.M. in Health Care Law, cum laude, 2005); Award for Highest Cumulative GPA in General Master of Laws Program; University of San Diego Mental Health Advocacy Clinic
- University of California, Hastings College of the Law (J.D., 2004); Communications and Entertainment Law Review, Senior Executive Editor; American Constitution Society for Law and Policy, President; Civil Harassment Temporary Restraining Order Clinic
- University of California, San Diego (B.A., Provost Honors, 2000)

### **State Admissions**

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- California, 2004

### **Federal Admissions**

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- United States Court of Appeals, Ninth Circuit
- United States District Court, Central District of California
- United States District Court, Eastern District of California
- United States District Court, Northern District of California
- United States District Court, Southern District of California

### **Service Areas**

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- Real Estate
- Labor & Employment
- ESOP
- Insurance
- Health Care
- Food, Cosmetics & Dietary Supplements
- Cannabis
- Business Litigation
- Privacy & Data Security

## Experience

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- Secured trial defense verdict on behalf of a client sued for breach of the covenant of good faith and fair dealing, fraud, constructive fraud, conspiracy, aiding and abetting, fraudulent misappropriation, conversion, and negligence
- Secured trial defense verdict on a re-trial of a case involving a failed 1031 exchange of office buildings after the client had suffered a substantial compensatory and punitive damage verdict in the original trial handled by another firm
- Obtained a seven-figure judgment in favor of a client after obtaining an order striking cross-defendant's answer and cross-complaint
- Obtained summary adjudication on behalf of a company sued for indemnity by a former manager who was accused of sexual harassment by a former employee; the court determined that the company was not liable to the former manager and was entitled to indemnity for the harm suffered by the company
- Successfully defended the appeal of a trial victory on behalf of a client sued for breach of the covenant of good faith and fair dealing and negligent performance of contract relating to a complicated real estate purchase transaction
- Obtained summary judgment on behalf of title insurance company and successfully defended appeal resulting in published opinion *Hovannisian v. First American Title Insurance Company* (2017) 14 Cal.App.5th 420
- Successfully defended commercial landlord against nuisance case brought by former tenant
- Successfully obtained dismissal of lawsuit against restaurant owner client against Unruh Civil Rights Act lawsuit
- Regularly advises clients regarding the manufacture, sale, and distribution of CBD products

## Publications & Events

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### SPEAKING ENGAGEMENTS

- “A Discussion on Data Security Issues Affecting Businesses Nationwide,” Tucker Ellis In-House Counsel Summit (November 2023)
- “We’re Not in Kansas Anymore, Are We? Operating in Multiple States May Mean Big Differences in Employment Laws,” Tucker Ellis In-House Counsel Summit (October 2022)
- “The Phantom Process Agreement,” Tucker Ellis Webinar (March 2022)
- “Marijuana Advertising in California,” Tucker Ellis LLP, Los Angeles, California (April 2018)
- “The Duty to Defend and the Right to Independent Counsel,” Tucker Ellis LLP, Los Angeles, California (July 2017)
- “Selected Topics Concerning the 2010 ALTA Homeowner’s Policy, Cumis/Independent Counsel, and Supplemental Taxes,” Stewart Title Guaranty Company, Addison, Illinois (July 2016)
- “The Full Credit Bid Rule,” First American Title Insurance Company, Santa Ana, California (May 2014)

### PUBLICATIONS

- [“New California Employment Laws for 2024: What Employers Need to Know,”](#) Tucker Ellis Client Alert (January 2024)
- [“New California Employment Laws for 2022: What Employers Need to Know,”](#) Tucker Ellis Client Alert (December 2021)
- [“New California Employment Laws for 2021: What You Don’t Know May Hurt You,”](#) Tucker Ellis Client Alert (December 2020)
- [“Hemp/CBD Companies: Make Your Voices Heard on USDA and DEA Regulations Restricting Hemp Production,”](#) Tucker Ellis Client Alert (October 2020)
- [“COVID-19: How Should Businesses Manage Their Employees in Light of the Global Pandemic?“,](#) Tucker Ellis Client Alert (March 2020)
- [“WARN Act Requirements for COVID-19-Related Shutdowns and Layoffs,”](#) Tucker Ellis Client Alert (March 2020)
- [“CBD in Consumer Goods: The Class Action Lawsuits Have Arrived,”](#) *Nutrition Industry Executive* (January/February 2020)
- [“New California Employment Laws for 2020: What Employers Should Know,”](#) Tucker Ellis Client Alert (December 2019)
- [“FDA Cannabis Regulation: Help Us Make Your Voice Heard,”](#) Tucker Ellis Client Alert (April 2019)
- [“Sifting Through the Weeds: A Primer on Federal Laws Regulating CBD Oil,”](#) *Nutrition Industry Executive* (September 2018)

### **In the Community**

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- State Bar of California
- Los Angeles County Bar Association
- International Association of Privacy Professionals
- International Cannabis Bar Association
- The ESOP Association
- ESOP Association – California & Western States Chapter
- Women in Trade Orange County