

Theodore J. Boutrous, Jr.



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Representative Appellate and Constitutional Cases

- Served as lead counsel for Walmart in the *Dukes* case before the Supreme Court of the United States, successfully challenging an order certifying the largest employment class action in American history. In a landmark decision, the Court ruled in favor of Walmart on June 20, 2011, establishing important principles governing all class actions.
- Serving as one of the lead lawyers for the plaintiffs in the pending federal constitutional challenge to California’s ban on same-sex marriage, Proposition 8.
- Serving as national strategic and appellate counsel for Dole Food Company, Inc. in a series of toxic tort claims brought by plaintiffs from Central American countries alleging sterility due to exposure to the pesticide DBCP. Persuaded Los Angeles Superior Court Judge Victoria Chaney to dismiss two cases brought by Nicaraguan plaintiffs on grounds of “fraud on the court”; also persuaded United States District Court Judge Paul Huck in Miami to deny enforcement of a \$97 million Nicaraguan judgment based on the lack of due process and the absence of fair and impartial tribunals in that country.
- Representing Chevron Corporation in the Lago Agrio environmental litigation based in Ecuador in which plaintiffs are seeking billions of dollars in damages.
- Persuading a federal district court to dismiss the California Attorney General “public nuisance” lawsuit against six major automakers seeking billions of dollars in alleged damages supposedly suffered by the State as a result of global warming caused by auto emissions.
- Persuading the United States Court of Appeals for the Tenth Circuit to affirm dismissal of a securities class action seeking \$3 billion in damages, based on the unreliability of the plaintiffs’ expert testimony on loss causation.

- Persuading the California Supreme Court, in a unanimous opinion addressing issues of first impression concerning state conflict of interest law, to dismiss felony criminal charges that had been pending for nearly five years against former members of the Board of Trustees of the San Diego City Employees' Retirement System.
- Persuading the United States Supreme Court to vacate a \$290 million punitive damage award against Ford Motor Company, which had been the largest personal injury award ever affirmed on appeal in United States history. On remand the California Court of Appeal cut the award by over 90%.
- Persuading the United States Court of Appeals for the Fourth Circuit to reverse a \$262 million damage award – at the time, the third largest verdict ever against an auto manufacturer – against DaimlerChrysler Corp. in a product liability case.
- Persuading a federal district court, on behalf of *The Wall Street Journal*, to overturn the largest libel verdict in history (\$222 million) based on lack of evidence and “serious misconduct” of the plaintiff during discovery and trial, and devising a strategy that caused the plaintiff to dismiss its case entirely.
- Persuading the California Supreme Court, in one of its leading decisions on punitive damages, to reject an “aggregate profit disgorgement approach” and thereby hold that a \$10 million punitive damage award was excessive and unconstitutional.
- Persuading the United States Court of Appeals for the Ninth Circuit to reverse in published decision a District Court judgment that some Farmers Insurance Group claims adjusters were subject to federal overtime laws and to throw out a \$52.5 million judgment in the collective action.
- Persuading the Michigan Supreme Court to overturn the largest sexual harassment verdict in U.S. history (\$21 million).
- Representing major media organizations (including NBC, CBS, ABC, CNN, Fox, *The New York Times*, *Los Angeles Times*, *USA Today*, the Associated Press, and *The Washington Post*) in seeking public access to secret judicial proceedings and records in the California criminal trial against Michael Jackson.
- Representing numerous parties and *amicus curiae* before the Supreme Court of the United States, including playing a leading role for over two decades in challenging the constitutionality of punitive damages.