

# Christopher D. Dusseault

Partner

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Los Angeles



Christopher D. Dusseault is a partner in the Los Angeles office of Gibson, Dunn & Crutcher. He practices in the Firm's Litigation Department, and the Antitrust and Competition, Class Actions, and Life Sciences Practice Groups. Chris led the Firm's Los Angeles and Century City offices from 2009-2013.

Chris is an experienced trial and appellate lawyer whose practice focuses on antitrust litigation, particularly leading the defense of large antitrust class actions, as well as other high-stakes business disputes. In addition to litigating cases from inception to verdict, Chris has often brought in by clients who have lost a jury trial and are facing a verdict in the hundreds-of millions or billions of dollars to reverse the outcome. The *Daily Journal* named Chris to its 2024 list of the "Top 100 Lawyers in California," and to its 2024 list of "Top Antitrust Lawyers." The *Daily Journal* previously named him one of California's "Top 20 Under 40."

In his antitrust practice, Chris has defended his clients across the country against claims of conspiracy, monopolization, attempted monopolization, exclusive dealing, and predatory contracting, bundling and product development practices. Clients also turn to Chris to lead the defense of their most important litigation matters in substantive areas other than antitrust, including claims for breach of contract, fraud, wrongful death, product liability, enforcement of foreign judgments, worker misclassification, wage and hour violations, and trademark infringement. Chris was one of the lead trial lawyers in *Hollingsworth v. Perry*, the landmark civil rights case that successfully challenged and overturned California's Proposition 8, which excluded gay men and lesbians from the right to marry.

Chris is a member of the Executive Committee of the Board of Visitors of Duke Law School, and he has been recognized by the school with its Young Alumni Award for service to the school and the practice of law. Chris also serves on the Governing Board of the nationally recognized after-school program LA's BEST, where he was Board Chair from 2014 through 2021. In 2022, Chris received LA's BEST's Children's Champion Award for his years of service to the children of Los Angeles.

Representative matters include the following:

## Antitrust Matters

- Representation of **HomeServices of America**, an affiliate of **Berkshire Hathaway**, in *Burnett v. NAR* (W.D. Mo.). Chris and the Gibson Dunn team were retained after a jury awarded Plaintiffs, a class of Missouri home sellers, \$1.8 billion in damages (pre-trebling) based on allegations that the National Association of Realtors and several corporate brokerages violated the antitrust laws by conspiring to inflate real estate commissions. After the team filed post-trial motions for judgment as a matter of law and a new trial, Chris negotiated a settlement securing the dismissal of all claims and broad releases from a nationwide class of home sellers.
- Representation of **HomeServices of America**, an affiliate of **Berkshire Hathaway**, in *Lutz v. HomeServices of America* (S.D. Fla.), a nationwide antitrust class action based on the same conduct alleged in *Burnett* but brought by home buyers rather than home sellers. Plaintiffs claim to be indirect purchasers harmed by inflated real estate commissions through higher home prices. This case was filed in 2024 and is set for trial in December 2025.
- Representation of the **National Football League** in *In re NFL "Sunday Ticket" Antitrust Litigation* (C.D. Cal.). Chris and the Gibson Dunn team were retained to assist with post-trial motions and appeals after a Los Angeles jury awarded Plaintiffs \$4.7B in damages (pre-trebling) in an antitrust class action alleging overcharges in connection with the NFL's Sunday Ticket product offering. In August 2024, the trial judge granted judgment as a matter of law in NFL's favor and entered judgment for the NFL on all claims. Chris and the Gibson Dunn team have appeared on behalf of the NFL in the Ninth Circuit, and briefing of the appeal is likely to take place in 2025.
- Representation of **Energizer Holdings, Inc.** in *Portable Power, Copeland and Schuman v. Energizer* (N.D. Cal.), a series of antitrust class action lawsuits alleging a price-fixing conspiracy with respect to the wholesale and retail sale of disposable batteries in the United

## Capabilities

Antitrust and Competition  
Appellate and Constitutional Law

Class Actions  
Capital Markets  
Life Sciences  
Litigation

Media, Entertainment, and Technology

## Credentials

Education  
Duke University - 1994 Juris Doctor

Yale University - 1991 Bachelor of Arts

Admissions  
California State Bar

## Clerkships

USDC, Eastern District of Virginia, Hon.  
Robert E. Payne, 1994 - 1995

States Two classes of purported direct purchasers and one class of indirect purchasers claim that Energizer and a major retailer conspired to inflate both wholesale and retail prices of disposable batteries and related products. The cases are currently in discovery with a trial date in 2028.

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- Representation of **Duke University** in *Henry v. Brown University* (N.D. Ill.), an antitrust class action in which plaintiffs allege that 17 private universities conspired to limit the amount of financial aid available to students in violation of Section 1 of the Sherman Act. Chris successfully negotiated a settlement through which Duke obtained releases from a nationwide class of students who attended the Defendant schools over a period of more than 20 years.
- Representation of **Duke University** in *Hansen v. Northwestern University* (N. D. Ill.), another antitrust class action in which plaintiffs allege that universities conspired to limit the amount of financial aid available to students in violation of Section 1 of the Sherman Act. The *Hansen* case names 40 universities and the College Board as defendants, and purports to focus on the consideration of financial information about the applicant's non-custodial parent. This case is in its early stages.
- Representation of **Merck & Co., Inc.** in *In re Zetia* (E.D. Va.), an antitrust MDL and class action in which plaintiffs alleged an unlawful agreement and conspiracy to delay generic competition in violation of Sections 1 and 2 of the Sherman Act and various state laws. Chris was one of the leaders of the trial team, and he led the team that defeated certification of a direct purchaser class for failure to satisfy the numerosity requirement of Rule 23(a) of the Federal Rules of Civil Procedure. The case settled while the parties were picking a jury.
- Representation of **Santa Catalina Island Company** in *Curtin Maritime Corp. v. Santa Catalina Island Company* (C.D. Cal.), a case in which Plaintiff alleged monopolization of freight access to Catalina Island in Southern California. The district court granted Defendants' motion to dismiss. The Ninth Circuit affirmed dismissal of Plaintiff's Section 1 claim based on failure to plead antitrust standing, and it affirmed the dismissal of Plaintiff's Section 2 monopolization claim based on failure to plead possession of monopoly power by any Defendant. The Court remanded on the claim for conspiracy to monopolize.
- Representation of **Covidien** (formerly **Tyco Healthcare**) in *Allied Orthopedic Appliances v. Tyco Healthcare* (C.D. Cal.), a consolidated antitrust class action in which purchasers of pulse oximetry products challenged Covidien's product design changes and contracting practices under Sections 1 and 2 of the Sherman Act. Chris led a team that defeated class certification won summary judgment on all claims. The Ninth Circuit affirmed summary judgment, holding that product improvement does not violate the antitrust laws and that courts should not weigh the benefits of an undisputed product improvement against the alleged harm to competitors. *Allied Orthopedic Appliances v. Tyco Healthcare*, 592 F. 3d 991 (9<sup>th</sup> Cir. 2010).
- Representation of **Covidien** (formerly **Tyco Healthcare**) in *Masimo v. Tyco Healthcare* (C.D. Cal.) Chris and the Gibson Dunn team were retained after a Los Angeles jury awarded Masimo \$140 million (pre-trebling) based on claims that Covidien violated the antitrust laws through contracting practices such as sole-source contracts, market share discounts and bundling discounts with respect to pulse oximetry products. After trial, the district court reduced damages to \$14.5 million (pre-trebling) and ruled in Covidien's favor on Masimo's bundling claims. The Ninth Circuit affirmed the district court's ruling.
- Representation of **CFM International, Inc.**, a joint venture including **GE Aircraft Engines**, in *Aviation Upgrade Technologies v. Boeing* (C.D. Cal.), an antitrust case under Section 1 of the Sherman Act in which Plaintiff challenged defendants' decision not to sell aircraft engines to plaintiff for use in the re-engining of 727 aircraft. After securing dismissal of plaintiff's claims on a motion for summary judgment, Chris successfully argued the appeal before the United States Court of Appeals for the Ninth Circuit. The Ninth Circuit affirmed summary judgment, finding that Plaintiffs was a nascent firm that lack antitrust standing. *Aviation Upgrade Tech. v. Boeing Co.*, 78 Fed. Appx. 623 (9<sup>th</sup> Cir. 2003).
- Representation of **American Airlines** in *United States v. AMR Corp.* (D. Kan.), an antitrust case brought by the United States Department of Justice alleging monopolization of flight routes into and out of DFW airport. The Gibson Dunn team obtained summary judgment in American's favor, and the result was affirmed by the 10<sup>th</sup> Circuit on appeal. *United States v AMR Corp.*, 335 F.3d 1109 (10<sup>th</sup> Cir. 2003).

## Commercial Litigation Matters

- Representation of **Inter-Con Security Systems, Inc.** in *Lopez v. Inter-Con Security* (C.D. Cal.). Plaintiffs sought to enforce a multi-million-dollar judgment they had obtained in Honduras against Inter-Con Security, a U.S. company based in California. Chris served as lead counsel in the matter. In November 2024, Chris argued Inter-Con's motion for summary judgment, contending that the Honduran Court lacked personal jurisdiction over Inter-Con under California law because it did not directly conduct business in Honduras and was a separate corporate entity from its Honduran subsidiary. Inter-Con further argued that more than 90 percent of the damages awarded were an unenforceable penalty because they did not compensate Plaintiffs for a proven injury. Two days after the argument, the Court granted Inter-Con's motion, finding that there was no genuine issue of material fact with respect to the Honduran Court's lack of personal jurisdiction over the U.S.-based Inter-Con entity, and alternatively that there was no genuine issue of material fact that the vast majority of the damages were a penalty under California law and thus could not be enforced. The Court entered judgment in favor of Inter-Con.
- Representation of a market leading independent power producer and service provider in multiple international arbitrations involving allegations of design defects and breach of contract with respect to the purchase of hundreds of wind turbines. Chris led a trial team that prevailed in a three-week arbitration of these claims in Los Angeles, California and secured injunctive relief and attorneys' fees for its client. This victory led to the subsequent settlement of all remaining arbitrations.

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- Representation of **ev3**, a subsidiary of **Medtronic**, in *ev3 v. Lesh* (Supreme Court of Delaware). After a Delaware jury awarded \$250 million in damages and interest based on claims that ev3 breached a merger agreement, ev3 retained Chris and the Gibson Dunn team to appeal to the Delaware Supreme Court. The Delaware Supreme Court reversed, finding that the trial court erred by allowing Plaintiffs to argue that a nonbinding funding provision in a letter of intent was part of the merger agreement and could be a separate basis for its breach of contract claim. Chris led the trial team following remand, and the case settled shortly before trial.
- Representation of **TSL** and **Sofradim**, subsidiaries of **Medtronic**, in *In re C.R. Bard, Inc. Pelvic Repair Systems Products Liability Litigation* (S.D. W. Va.). Chris and the Gibson Dunn team were retained to litigate claims for indemnification and declaratory relief against C.R. Bard arising out of more than 11,000 pelvic mesh product liability cases. The dispute was part of a \$1.5 billion pelvic mesh MDL in the Southern District of West Virginia. Chris also served as lead counsel in related actions between the same parties in London, Atlanta and New Jersey.
- Representation **VOOM HD Holdings**, in *Voom v. Dish Network* (Supreme Court, State of New York), a multi-billion-dollar breach of contract action against DISH Network in which Voom alleged that Dish breached a contract between the parties by terminating its relationship with Voom. Chris was one of the principal trial lawyers in this jury trial. During the four-week trial, Voom obtained a lucrative settlement valued at more than \$1 billion, one of the largest settlements in a breach of contract case in New York State Court history.

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- Representation of plaintiffs **Kris Perry, Sandy Stier, Paul Katami and Jeff Zarrillo** in *Hollingsworth v. Perry* (N.D. Cal.), the lawsuit that successfully challenged Proposition 8, California's ban on same-sex marriages. Chris was one of the principal trial lawyers during the three week bench trial that resulted in a finding that Proposition 8 violated the Due Process and Equal Protection Clauses of the Fourteenth Amendment and an injunction barring enforcement of Proposition 8. In June 2013, the United States Supreme Court upheld the district court's decision and permanently restored marriage equality in California. Chris also successfully argued a separate appeal before the Ninth Circuit that resulted in the unsealing of video recordings of the Prop. 8 trial, allowing those historically significant recordings to be viewed by the public and used for journalistic and educational purposes.

Chris received his B.A., *summa cum laude*, from Yale University in 1991. He received his J.D. with high honors, from Duke University School of Law in 1994, where he was Special Projects and Notes Editor of *Law and Contemporary Problems* and Vice-Chairman of the Moot Court Board. Prior to joining the firm, Chris served as law clerk to The Honorable Robert E. Payne in the United States District Court for the Eastern District of Virginia.