

# Daily Journal

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## Leading COMMERCIAL LITIGATORS 2023



### Theodore J. Boutrous, Jr.

GIBSON, DUNN &  
CRUTCHER LLP  
LOS ANGELES  
LITIGATION

With a multifaceted docket that ranges from the former UC Hastings College of the Law's name change to a massive reverse hiring discrimination class action to your cup of morning joe, Theodore J. Boutrous Jr. is a prominent, go-to advocate at Gibson, Dunn & Crutcher LLP. He's been with the firm since 1987, when he joined as an associate in the

appellate group in Washington, D.C. He was mentored by Gibson Dunn partner Theodore B. Olson, whose career includes a stint as U.S. Solicitor General. As appellate work expanded on the West Coast, Boutrous moved to Los Angeles in 2000. He's on the firm's executive and management committees.

Boutrous relishes his varied caseload. "It makes life interesting and exciting," he said. "My cases cut across our legal, social and political life. My world looks like a cross-section of our existence."

At the close of 2022, Boutrous successfully fought off efforts to halt Hastings' name change, allowing the school to go forward in 2023 with the switch to its new moniker: UC College of the Law, San Francisco. Boutrous defeated a bid for a preliminary injunction by some alumni and descendants of namesake Serranus Clinton Hastings, a former chief justice of the state Supreme Court found by a school commission to have participated in the genocide of Yuki people in Mendocino County in the 1850s. *Hastings College Conservation Committee v. State of California et al.*, CGC-22-602149 (S.F. Super. Ct., filed Oct. 4, 2022).

At a Dec. 30 hearing, Boutrous persuaded the court that the 1878 act that created the law school was a statute, not a contract, and that the plaintiffs' contract clause claims fail. Boutrous and the school are also appealing an adverse anti-SLAPP ruling on the issue. "Naming an institution is speech," Boutrous said. "The plaintiffs themselves say the re-naming is political speech." The matter is now at the 1st District Court of Appeal.

In a win for a tech client, Boutrous argued successfully against certification of the largest classes in a nationwide

reverse employment discrimination case. The plaintiffs, four former employees of defendant Cognizant Technology Solutions Corp., alleged the company offered preferential hiring, promotions and terminations to Indians and South Asians. *Palmer v. Cognizant Technology Solutions Corp.*, 2:17-cv-06848 (C.D. Cal., filed Sept. 18, 2017).

In October 2022, the court denied certification of the hiring and termination classes, adopting Boutrous' arguments. Those wins cut Cognizant's exposure by reducing the class size to less than 2% of what the plaintiffs originally sought. Boutrous said he'd seek review of the rest at the 9th U.S. Circuit Court of Appeals.

"We've seen several of these big reverse discrimination cases filed by the same firm," Boutrous said. "They raise issues we confronted in *Dukes v. Walmart*. I really like being able to put by past cases to work for me."

In a case that could reach the state Supreme Court, Boutrous represents Nestlé USA and other major players in the coffee industry who are defending the brew against claims they violated Proposition 65 by failing to include cancer warnings on coffee products. Before the defendants retained Gibson Dunn, a trial court had ruled the companies were liable and had scheduled a penalties phase at which the plaintiff was seeking more than \$1 billion. Boutrous' appeal led to a reversal. *Council for Education and Research on Toxics v. Starbucks Corp. et al.*, B309227 and B310481 (2d DCA, op. filed Oct. 26, 2022).

"I do think about the case when I have a cup," Boutrous said. "We're here to help."

— JOHN ROEMER