



Edward F. Donohue III

Partner

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Edward Donohue is a business litigator. For more than three decades, he has defended the interests of clients—which span a number of industries—in litigation and regulatory proceedings. In addition to helping clients navigate their current legal issues, Ed provides insights for managing and mitigating future risks.

Leveraging his extensive experience, Ed counsels attorneys, real estate professionals, and financial planners, as well as insurance agents and brokers facing allegations involving professional liability. He also works with a number of institutional clients including: banks, credit unions, Fintech lenders, financial planners, professional and financial services liability insurers, life, health, and disability insurers, and other financial services companies.

Over the course of his career, Ed has represented clients in licensing, disciplinary, and other regulatory proceedings before the:

- California Department of Insurance;
- California Bureau of Real Estate;
- State Bar of California;
- Securities and Exchange Commission (SEC);
- California Department of Business Oversight;
- California Department of Corporations;
- California Department of Labor Standards Enforcement; and the
- U.S. Equal Employment Opportunity Commission (EEOC).

Ed also represents clients before self-regulatory bodies such as the Financial Industry Regulatory Authority (FINRA), National Futures Association, and the CFP Board.

In addition to his extensive work for clients on professional liability matters, Ed has represented a variety of businesses in trials and cases concerning industrial accidents and catastrophic injuries.

Active in the legal community, Ed has written extensively on the professional liability risks of accountants, attorneys and financial planners. He is also frequently called up to provide presentations for a number of organizations, as well as his clients. In addition, Ed supervises a national risk management hotline that provides risk management advice to real estate professionals.

Practices

Professional Liability
Real Estate Agents & Brokers Liability
Insurance Agents & Brokers Liability
Directors & Officers Liability
Bankruptcy, Restructuring & Workouts
Life, Health, Disability & ERISA Litigation
Labor & Employment

Industries

Insurance & Reinsurance

Education

J.D., Georgetown University Law Center, 1981

B.A., *magna cum laude*, Fordham University, 1978

Admissions

California



During law school, Ed was involved in a number of associations and activities. An active member of the *American Criminal Law Review*, he served as the publication's Associate Editor.

Professional Affiliations

- American Bar Association
 - Standing Committee on Lawyers' Professional Liability
 - Tort and Insurance Practice Section
 - Fidelity and Surety Law Committee
- Bar Association of San Francisco
 - Legal Malpractice Section
- California Lawyers Association
 - Real Property Law Section
- Claims & Litigation Management Alliance
 - Professional Liability Section
- San Francisco Bank Attorneys Association

Honors & Awards

- Recognized on the Super Lawyers list by *Northern California Super Lawyers* magazine, 2004, 2006 – 2009, 2011 – 2023
- AV® Peer Review Rating from Martindale-Hubbell, its highest rating for ethics and legal ability

Representative Matters

- Successful defense and appeal of insurance bad faith action based on \$49 million FDIC professional liability claim against bank officers for alleged negligent commercial real estate lending practices.
- Prevailed in retrospective premium rating liability action based on alleged misclassification of risk.
- Successful defense of client in investment sales practices liability case based on sale of variable annuities.
- Prevailed in establishing that Jones Act liability claim is not covered by workers compensation insurance.
- Successful prosecution and appeal of real property owner's wrongful collection and foreclosure action against private real estate lender.
- Landmark appellate court decision recognizing that financial institutions could assert *in pari materia* defense against successor bankruptcy trustees suing bank based on customer insider fraud.
- Landmark decision successfully challenging bankruptcy trustee's "strong arm" powers under Section 544 of the Bankruptcy Code. U.S. Court of Appeals, Ninth Circuit, overruled as discriminatory and contrary to public policy standing 92-year-old precedent that a female spouse is deemed to dwell in family residence "at the pleasure" of her husband so as to negate constructive notice of wife's interest.

Presentations

- Co-Presenter, "Ethics of Cyber Security and Diminished Capacity," California Special Needs Planning Symposium, Santa Rosa, California, February 7, 2019
- "The Fiduciary's Risk in the Event of a Data Breach" California Special Needs Planning Symposium, January 2019
- "The State of the Lawyer's Insurance Market 2019" Legal Malpractice and Risk Management (LMRM) Conference, Chicago, Illinois, March 6, 2019



- "The Impact of Cyber Attacks and Data Breach on Professionals" Claims Litigation Management Alliance National Conference, March 2018
- "Crisis Management – Sword or Shield," ABA National Legal Malpractice Conference, April 2017
- "The Lawyer's Insurance Market 2017," LMRM Conference, Chicago, Illinois, March 2017
- "Attorney-Client Privilege in House Counsel Environment," 26th Annual Association of California Insurance Companies (ACIC) General Counsel Seminar, July 22, 2015
- "The Insurance Lawyer as Guardian of Client Privileges," ABA National Legal Malpractice Conference, April 2015

Publications

- "An Epic shadow over PAGA," *LA Daily Journal*, July 13, 2018
- "The damage vulnerabilities professionals face in the event of a data breach," Thomson Reuters' *Westlaw Journal Computer & Internet*, May 18, 2018
- Author, Chapter 11, "Insurance Agency Risk Management: E&O Exposures By Lines of Business," Thomson Reuters' *Life and Health Insurance Law*, 2015
- "The Insurance Lawyer as Guardian of Client Privileges," White Paper, presented at the ABA's National Legal Malpractice Conference, April 2015

Personal

Ed was born in Staten Island, New York.

Community/Civic Activities

Ed is active in providing volunteer assistance to several San Francisco Bay Area bar associations.