

Eric Akira Tate



Partner

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EDUCATION

University of California, Berkeley,
B.A., 1992
University of California, Berkeley,
School of Law, J.D., 1995

BAR ADMISSIONS

California

PRACTICES

Class Actions + Mass Torts
Employment + Labor
Financial Services
Litigation
Trade Secrets

INDUSTRIES

Finance
Life Sciences + Healthcare
Media + Entertainment
Social Media
Technology

Eric Akira Tate co-chairs the firm's Global Employment and Labor Group. He represents technology and other companies in bet-the-company trade secrets and employee mobility cases. Eric also represents boards of directors in #MeToo and other sensitive internal investigations and disputes with executives, and companies in whistleblower, wrongful termination, discrimination and harassment, wage-and-hour, and other employment litigation. In addition, Eric counsels companies on employment law compliance and transactional matters, including enforceability of restrictive covenants and other personnel policies and procedures throughout the United States, employment aspects of mergers and acquisitions, and collective bargaining and traditional labor relations.

Eric recently represented Uber in its diligence investigation as part of its acquisition of Ottomotto, the autonomous vehicle startup founded by former Google engineers. He then helped lead Uber's defense of the subsequent patent infringement and trade secrets misappropriation suit filed in 2017 by Waymo, which settled several days into trial in February 2018. In addition to technology companies, Eric has handled similar matters for companies across many industries, including, but not limited to, *Williams Sonoma v. Restoration Hardware*, *International Lease Finance Co. v. Air Lease Corporation*, *Melaleuca, Inc. v. Shaklee Corporation*, and *New Century Mortgage v. Encore Credit*. A representative sampling of Eric's other key matters is further below.

Additionally, Eric is a thought leader and on the board of review for leading BNA treatises *Trade Secrets: A State-by-State Survey*; *Covenants Not to Compete*; *Employee Duty of Loyalty*; and *Tortious Interference in the Employment Context*. He is author of "Protecting Investments in IP and People" in *Today's General Counsel*; "Workplace Bias and Gender Pay Equity in the Silicon Valley" in *LJN Employment Law Strategist*; "Trade Secrets and the Activision Case: Lessons for Employers and Employees" in the *IP Litigator*; "Protect Your Investments: Recent Developments in California Law Regarding Non-competition Agreements and Other Restrictive Covenants" in *NVCA Today*; "Microinequities: Can Bad Behavior Be Actionable?" in *The National Law Journal*; "The When, Who and How of Workplace Investigations" in *The Practical Litigator*; "The NLRB's Decision in *Browning-Ferris of California* (2015) One Month Later: Is the Sky Falling for Employees?" in *Morrison Foerster Employment Law Commentary*; and "California Raises Bar for Employers Again: Gender Pay Bias Claims Set to Take Off with New Gender Pay Equity and Anti-Discrimination Law" in *Bloomberg BNA Daily Labor Report*.

Eric is a leader in the American Bar Association's (ABA's) Labor and Employment (LEL) Section and LEL's Employment Rights and Responsibilities (ERR) Committee, serving as co-chair of the Covenants Not to Compete and Trade Secrets Subcommittee. Eric has also served as a past co-chair of the ABA LEL Annual Meeting Committee, the LEL Section Annual CLE Conference, ERR's Alternative Dispute Resolution, Employment At-Will and Collateral Torts, and Worker Dislocation Subcommittees. In 2019, Eric was elected to the governing Council for the Labor and Employment Section. He also served on the Planning Committee for the National Employment Law Council's Annual Conference.

Eric serves as a mediator for the Northern District of California's Alternative Dispute Resolution Program, handling trade secrets and employee mobility, wage-and-hour, employment discrimination and harassment, and traditional labor relations matters.

Eric is active in community endeavors. He founded and is a former president of the board of directors of Hapa Issues Forum, Inc., a nonprofit community organization that addresses issues relating to persons of partial Asian descent. Eric is a past president of the board of directors of the Japanese Cultural and Community Center of Northern California. He also is a member of the INROADS Alumni Association and the 100 Black Men of the Bay Area, Inc., and has served as a mentor for students in the Level Playing Field Institute's IDEAL Scholars Program.

Trade Secrets and Employee Mobility Litigation

- Representing industry-leading enterprise data cloud company in multiple trade secrets and employee mobility lawsuits against former employees and competitor, including obtaining TRO on behalf of client enforcing restrictive covenants against Georgia employee, and successfully opposing motions to dismiss and motions to stay in various actions.
- Representing leading cloud computing and virtualization technology company in breach of duty and breach of contract lawsuit against departed executive.
- Defending leading multi-cloud security and application management company in federal court lawsuit by competitor alleging trade secrets misappropriation, various employment-related contract and tort claims, and copyright and trademark violations based on alleged conduct in Russia and California.

- Represented Fortune 50 corporation in trade secret and employee and customer raiding lawsuit against former co-founder and top executives who launched a competing business that achieved a nearly \$1 billion IPO.
- Represented international virtualization software company in trade secret misappropriation and employee and customer raiding lawsuit against several former executives.
- Represented North American provider of IT solutions and services in series of lawsuits across the United States to combat alleged employee and customer raiding activities by competitor.
- Defended investment bank in lawsuit involving enforceability of departing executive's post-termination non-competition agreement.
- Represented pharmaceutical company in trade secret misappropriation lawsuit against former finance employee.
- Represented international video game maker in trade secret misappropriation lawsuits against former executives and new competing business.
- Defended national mortgage company in trade secret misappropriation and employee and customer raiding lawsuit filed by competitor.
- Defended North American home furnishings retail chain in trade secret misappropriation and employee raiding lawsuit filed by competitor.

Whistleblower and Other Employment Litigation Matters

- Obtained complete defense award on behalf of technology company in suit filed by former co-founder alleging that the company failed to repurchase upon termination restricted stock valued at more than \$5 million.
- Obtained complete dismissal in favor of publicly traded gig economy company of discrimination and wrongful termination claims by alleged whistleblower engineer.
- After years of litigation, obtained complete walkaway voluntary dismissal of sexual harassment and discrimination claims by former accounting employee against venture capital and property management company.
- Advised board of directors of leading IT infrastructure company in termination of CEO and CFO of U.S. subsidiary after misconduct investigation, and represented board of directors in follow-on wrongful termination claims by CEO and CFO resulting in pre-litigation settlements favorable to the company.
- Defended pre-IPO biotech company in wrongful termination suit by former co-founder and CEO terminated by board of directors.
- Defended venture capital fund in pregnancy discrimination and restrictive covenant lawsuit by former partner.
- Defended leading corporate social responsibility company in whistleblower and employment discrimination suit filed by former finance executive.
- Defended international laser and fiber-optics company in suit alleging fraud regarding stock options.
- Defended international video game maker in whistleblower and employment discrimination suit filed by former executive.

Wage and Hour Class and Representative Actions

- Defended construction company in purported class action for failure to comply with California wage laws.
- Defended international technology company in collective action alleging failure to accurately pay wages to technicians across the United States.

- Defended national restaurant chain in class action regarding alleged failure to comply with California uniform and other wage laws for 10,000 employees.
- Defended international engineering and construction company in class action regarding alleged failure to comply with California overtime laws.
- Defended landscaping company in class action regarding alleged failure to comply with California meal- and rest-period laws.
- Defended individual directors of bankrupt technology company in suit by former employees for unpaid wages.

Representative Non-Litigation and Transactional Matters

- Revised nationwide restrictive covenant agreements for publicly traded technology company.
- Advised leading venture capital fund on restrictive covenants strategy for fund managers.
- Investigated claims by in-house lawyer that public technology company executives engaged in sexual harassment and national origin discrimination and represented company in successful pre-litigation resolution of claims.
- Investigated and advised board of directors of pre-IPO biotech company on #MeToo allegations regarding top executives.
- Represented publicly traded pharmaceutical industry company in investigation and resolution of whistleblower claims by CFO.
- Represented publicly traded technology company in investigation and resolution of alleged revenue and expense reimbursement irregularities involving top sales executive.
- Represented founder of private technology company in negotiation of employment agreement with board of directors.
- Represented CEO in negotiation of executive employment agreement with publicly traded biotech company.
- Represented board of directors of NASDAQ-traded technology company in negotiation of CEO employment agreement.
- Represented minority-shareholder executives in negotiation of employment agreements with foreign buyer of company.
- Represented Intel Corporation in the employment aspects of its \$7.7 billion acquisition of McAfee, Inc., the world's largest dedicated security technology company.
- Represented Intel Corporation in the employment aspects of its \$1.4 billion acquisition of Infineon's Wireless Solutions business, which involved employees in jurisdictions across Asia, Europe, and North America.
- Represented GREE in the employment aspects of its \$104 million acquisition of OpenFeint, Inc., a California-based mobile social gaming network provider, including with particular regard to complex issues related to employment agreements and restrictive covenants for key employees.

Rankings

Named to Employment Authority Discrimination Editorial Advisory Board

Law360 2022

Recognized as a Labor & Employment Thought Leader

Who's Who Legal (2022)

Labor and Employment Star

Benchmark Litigation (2021,2023)

Recognized as one of Silicon Valley's Top 300 lawyers

San Jose Magazine

Recognized as a Super Lawyer

Northern California Super Lawyers (2005, 2011 - 2020)

Recognized as one of the "Top 20 Lawyers Under 40"

Daily Journal (2008)

Recognized as one of California's Top Employment and Labor Lawyers

Daily Journal (2019)

Recognized as one of one of the "Top Trade Secrets Lawyers"

Daily Journal (2020 - present)

Recommended in Intellectual Property: Trade Secrets

Legal 500 US (2018)

Recommended in Litigation: Trade Secrets

Legal 500 US (2012, 2013)

Recommended in Litigation: Labor and Employment

Best Lawyers in America (2013 - present)
