



## Anne Potiker

Associate

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San Diego, CA – 619.881.6415

Anne Potiker handles complex commercial and securities litigation. She is experienced in litigating shareholder derivative actions and claims involving corporate misconduct and violations of state and federal securities law. Anne also defends corporations and officers and directors in a variety of other disputes such as misappropriation of trade secrets, unfair competition, breach of fiduciary duty and related business torts. Anne serves as a strong and caring advocate for Wilson Elser's clients, and enjoys working closely with clients to creatively and collaboratively solve problems.

Prior to joining Wilson Elser, Anne was an attorney at a nationally recognized leader in shareholder rights law and built extensive experience in FINRA arbitration as well as general business litigation. During law school, Anne was a Praktikant/Intern at Hogan Lovell's Frankfurt office in their Capital Markets group.

### Education

- Pepperdine University School of Law (J.D., 2018)
  - CALI Awards in Advanced Litigation Writing and Negotiation in Theory and Practice
- Sotheby's Institute of Art / University of Manchester, England (M.A. Art Business, 2015)
- Chapman University (B.A. Art History, *cum laude*, 2014)

### Bar Admissions

- California

### Court Admissions

- U.S. District Court, Southern District of California

### Services

- Commercial Litigation
- Securities
- Directors & Officers Liability

- U.S. District Court, Central District of California

### **Professional Affiliations**

- Association of Business Trial Lawyers
- Voices for Children – San Diego, Board of Directors

### **Languages**

- German

## **Representative Matters**

Successfully defended action on grounds the claims sought to be enforced unlawfully restrained competition in violation of California Business and Professions Code section 16600, and obtained resulting award of prevailing party attorney fees.

Obtained favorable judgment in derivative action on behalf of limited liability company.

### **Venture Capital**

Apart from her experience in litigation and arbitration, Anne routinely advises those in the startup and Venture Capital community.

## **Client Wins**

### **Monks, McCloskey & Potiker Score Massive Win for 3D Printing Client**

Sean Monks (Partner-San Diego, CA), Michael McCloskey (Senior Counsel-San Diego, CA), and Anne Potiker (Associate-San Diego, CA) prevailed in a recent Order on a Motion for Summary Judgment in a sticky and highly personal trade secret case in the 3D printing industry – a publicly traded \$3 billion cap company against five individuals and their small startup. Also participating in the defense were outside co-counsel. Initially, there were seven causes of action. Four were jettisoned by virtue of 12(b)(6) litigation. What remained was a breach of contract claim and claims under DTSA and CUTSA. The plaintiff sought about \$30 million in damages and attorneys' fees.

In discerning their remaining claims, our team focused hard on pushing for proper identification of the trade secret and pigeon-holed the plaintiff into a definition of their 12 trade secrets supposedly misappropriated, which they refused to amend. Almost three years ago we got the magistrate judge to hold them to these disclosures and ROG responses, and he indicated their refusal to provide further detail would preclude them from amending and could be used against them in summary judgment. Fast forward to the present, and we have an Order finding it was more than past time for the plaintiff to “put up or shut up” at summary judgment. Having been stuck with their meagre disclosures, the judge latched onto the deficiencies and summarily dismissed all trade secret claims.

The breach of contract claim required a bit of creative analysis. Our clients were

supposedly precluded from using their skills in future work that could overlap in the 3D printing industry. We assessed the provision at issue and determined it violated section 16600 of the CCP. In California, "every contract by which anyone is restrained from engaging in a lawful profession, trade, or business of any kind is to that extent void." Cal. Bus. & Prof. Code § 16600(a). In fact, we filed an amended counterclaim alleging this issue, among other violations by the plaintiff related to our clients' trade secrets. The U.S. District Court for the Southern District of California specifically found, "The defense has the better argument." Heading into summary judgment, the plaintiffs were expecting to recoup up to \$40 million in a windfall through damages and fees, or at the very least, grind their competition into the dust. Instead, their entire case is gone and they are facing the pointy end of the spear of our own counterclaims and potential motion for fees related to bad faith.