

Daily Journal

SEPTEMBER 20, 2017

TOP 100 LAWYERS IN CALIFORNIA 2017

LITIGATION

John W. Keker

KEKER, VAN NEST & PETERS LLP | SAN FRANCISCO

SPECIALTY: WHITE COLLAR CRIMINAL DEFENSE, COMMERCIAL LITIGATION

A giant among litigators, Keker has never been afraid to take on big cases — or towering figures. The nation first found that out in the 1980s when Keker prosecuted Lt. Col. Oliver North over the Iran-Contra scandal. It was reminded again after Donald J. Trump was elected president.

Keker argued on behalf of the County of Santa Clara in a case that led to a preliminary injunction against Trump's executive order that would have precluded sanctuary cities from receiving some forms of federal funding.

"They've never appealed," he said. "We won it early on and a lot of other courts have followed that ruling since."

"We established that the president does not have the power to control the purse outside of congressional authorization, which is pretty obvious," he said.

Since its founding, Keker's firm, which bolsters an impressive roster of first-rate litigators, has always handled a significant number of pro bono matters alongside to its docket of major civil and criminal matters for corporate clients.

Some of the firm's attorneys began

representing children who fled violence in other countries to enter the U.S. a few years ago and the firm has embraced immigration work as a pillar of its pro bono service.

Keker is also representing a prominent immigrant in a non-pro bono case that goes to trial in February. The client is a Bangladeshi immigrant, the former chief financial officer of Autonomy, a company that sold itself to Hewlett-Packard Co. in an ill-fated deal that was followed by a drop in HP's value.

"The market reacted badly to the purchase and to other things. People behind the merger were fired," he said. "New management at HP a year later claimed they were defrauded."

Autonomy was the biggest company on the London Stock Exchange before the deal was made. HP was able to convince the federal government to bring a criminal case. Keker said the allegation was dubious to begin with, but the fact that the government is only attempting to punish the one non-white person involved in the deal is even more egregious.

"They say 15 people are responsible



for what they say is a crime. They only indicted one guy, the Bangladeshi," he said. "It's an outrageously unfair singling out of a person."

— Joshua Sebold

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Robert A. Van Nest

KEKER, VAN NEST & PETERS LLP | SAN FRANCISCO

SPECIALTY: INTELLECTUAL PROPERTY

Van Nest has no shortage of irons in the fire. He's waiting to argue an appeal of his victory defending Arista Networks Inc. in a case in which Cisco Systems Inc. accused the company of improperly copying its command line programming interface for networking products.

He's also preparing for argument in an appeal of a big win he got defending Alphabet Inc.'s Google against a lawsuit filed by Oracle Corp. about Java, a programming language developed by a company Oracle acquired.

Google borrowed concepts from Java when creating its Android operating system for smartphones, but Van Nest successfully argued in San Francisco federal court that Oracle encouraged competitors to use its technology.

But he isn't just waiting around for those arguments. Van Nest is also defending Qualcomm Technologies Inc. in a bevy of cases, brought by the Federal Trade Commission and prominent phone companies such as Apple Inc. and Samsung Electronics Co. Ltd., that

accuse the semiconductor and telecommunications equipment company of misdeeds in its licensing of patents for special processors used in smartphones.

"The plaintiffs are all claiming that Qualcomm has a monopoly in the communication chips inside so called high-end smartphones," he said. "Obviously, Qualcomm invented some of the cellular techniques at issue."

Qualcomm licenses the chips themselves and also charges clients that don't use the company's chips but essentially mimic the underlying technology.

"The plaintiffs are challenging this practice as a violation of the Sherman Act," he said. "They're claiming this is improper even though it's been in place for many, many years and the whole industry has been aware of it and accepted it."

A consumer lawsuit has also been filed on behalf of indirect purchasers, claiming Qualcomm's alleged monopoly increased prices for end users.

Van Nest said the licenses only cost a



few dollars, a pittance for purchasers of smartphones that often cost hundreds of dollars.

— Joshua Sebold

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Elliot R. Peters

KEKER, VAN NEST & PETERS LLP | SAN FRANCISCO

SPECIALTY: WHITE COLLAR CRIMINAL DEFENSE, PROFESSIONAL LIABILITY

Peters is still in disbelief about the fact that people answering the phones at his firm say his last name as part of the firm's title.

Peters said he always wanted to run his own small firm and never expected his name to be on an organization of this size, but the boutique structure of his litigation shop gives him the best of both worlds. His name was added to the firm's title in January, through a unanimous vote by his fellow partners.

"I sorta got to have my cake and eat it too," he said. "I still walk in there and see that sign and say, 'Oh my gosh, how did my name end up there alongside those two guys.'"

There is little doubt Peters has earned the distinction.

Whether it's handling high-profile cases like defending the late Aaron Swartz, a computer programmer beloved by internet activists and techies for helping to form social media/news site Reddit, or representing massive law firms in legal malpractice cases that the public never

hears about, Peters has repeatedly proven he belongs in the upper echelon of the litigation field.

Peters has been representing Lance Armstrong since 2011 and will defend him in a lawsuit brought by the U.S. Postal Service in November. The agency contends that Armstrong defrauded the federal government by allegedly using steroids while accepting a sponsorship.

Peters said the case is frivolous, because the government has no evidence that sponsoring Armstrong was a bad advertising investment. Peters said the marketing boost the agency got when Armstrong was at the height of his popularity exceeded any blowback after his career took a turn for the worse.

"It's so easy to vilify Lance and the case against him we're going to try in November is so bereft of any merit, but there's a lot on the line for him," Peters said.

Armstrong had heard about Peters and John Kecker representing the union for Major League Baseball players in a case



involving performance-enhancing drugs and the firm has represented him ever since.

— Joshua Sebold