

## Kalama M. Lui-Kwan

Partner

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Kalama represents parties in post-closing disputes arising out of M&A deals. He also has a national litigation practice representing consumer-facing companies in class actions and regulatory investigations.

### OVERVIEW

Kalama is one of the preeminent post-closing dispute specialists in the U.S. He litigates complex commercial matters involving business torts and contract claims arising from mergers and acquisitions of privately held companies, including disputes relating to working capital adjustments, earn-out milestones, voluntary disclosure agreements, and escrow distributions. His post-closing experience cuts across a diverse range of industries that includes medical devices, diagnostics, logistics, retail, video gaming, colocation, mobile devices, lighting, risk-management software, marketing, semiconductor equipment, lead generation, car rentals, media, and corrugated packaging.

Kalama also advises business-to-consumer companies when they are confronted with challenges that create potentially significant financial and reputational risk, including class actions, mass actions, and other complex lawsuits based on contract disputes, tort claims, and consumer-protection statutes, including state UDAP statutes, false advertising laws, the Fair Credit Reporting Act, and the Consumers Legal Remedies Act. He routinely advises consumer-facing companies in state and federal regulatory investigations. Since 2021, Kalama has co-chaired the Unfair Competition Subcommittee of the ABA Litigation Section's Consumer Litigation Committee.

Kalama serves as the managing partner of the San Francisco office and is a member of the firm's Partner Compensation Committee. He also serves on the CGS Dean's Advisory Board at Boston University and on the board of OneGoal Bay Area, a postsecondary access and success organization that works with schools and districts to transform postsecondary advising and support.

### REPRESENTATIVE MATTERS

#### Post-Closing Disputes

- Prevailed in an International Chamber of Commerce (ICC) arbitration arising from a near-\$200 million earnout payment obligation following the acquisition of a California company by a UK-based buyer.
- Secured award of full \$9.5 million earnout for a client pursuant to the parties' merger agreement.
- Achieved release of millions of dollars of escrowed merger consideration for sellers of a publishing business.

- Resolved more than \$7 million in indemnification claims to secure full release of escrow fund to selling shareholders.
- Resolved a dispute involving buyer's refusal to release \$200 million in earn-out payments to the sellers following \$1 billion acquisition of genetic testing company.
- Advised the representative of the selling shareholders of a private company in a \$35 million contract action with the purchaser following a \$400 million acquisition of a mobile device software company.
- Litigated and successfully resolved a \$5 million working capital dispute.
- Represented the plaintiff in a litigation based on the defendant's refusal to release more than \$7 million from escrow in connection with the acquisition of a technology company.
- Settled a pre-litigation dispute arising from buyer's failure to pay \$150 million of \$225 million in potential milestone payments in a \$400 million acquisition of a diagnostics company.

### **Consumer Litigation Matters**

- Represented a national finance company in more than 1,500 pending and threatened arbitrations, six state and federal lawsuits, and two Ninth Circuit appeals based on allegations concerning security agreement rates and disclosures.
- Successfully resolved multiple related class actions against a quick-service restaurant based on purported UDAP violations and contract claims.
- Representing a national bank in mass arbitrations and eight related class actions alleging racial discrimination in the opening and closing of banking and credit card accounts.
- Representing a solar finance company in multiple arbitrations and state and federal actions based on fraud and contract claims.
- Settled a putative class action against a fintech based on purported false advertising law violations, on an individual basis.

### **TOP AREAS OF FOCUS**

- [Business Litigation](#)
- [Class Action](#)
- [Consumer Financial Services](#)
- [Marketing + Advertising](#)

### **ALL AREAS OF FOCUS**

- [Business Litigation](#)
- [Class Action](#)
- [Consumer Financial Services](#)
- [Financial Services](#)
- [Financial Services Litigation](#)
- [Marketing + Advertising](#)
- [Residential Solar Leasing + Finance](#)

### **PROFESSIONAL/COMMUNITY INVOLVEMENT**

- Co-chair, Unfair Competition Subcommittee of the ABA Litigation Section's Consumer Litigation Committee

- Member, CGS Dean's Advisory Board at Boston University
- Member, Board of OneGoal Bay Area
- Member, Asian American Bar Association
- Member, National Asian Pacific American Bar Association

## EDUCATION AND CERTIFICATIONS

### EDUCATION

- University of California, Berkeley, School of Law, J.D., 2000
- Harvard University, M.P.P., 2000
- Boston University, B.A., 1995

### BAR ADMISSIONS

- California
- Hawaii
- New York

## SPEAKING ENGAGEMENTS

- Speaker, "Payments 101," Troutman Pepper, November 7, 2022.
- Speaker, "Diversity & Inclusion," Troutman Sanders San Francisco MCLE Day, January 16, 2020.
- Speaker, "The 2018 Financial Services Landscape: Regulatory and Legislative Developments," California Lawyers' Association, November 15, 2018.

## PUBLICATIONS

- Co-author, "Time Back on the Clock: Delaware Court of Chancery Equitably Extends Earnout Period to Remedy Buyer's Breach," *Troutman Pepper Locke*, March 24, 2026.
- Co-author, "Managing Mass Arbitration Risk: Looking Beyond Provider Mass Arbitration Rules," *American Bar Association*, February 5, 2026.
- Co-author, "Chancery Addresses 'Commercially Reasonable Efforts' Clauses in the Context of an Earnout Dispute," *Troutman Pepper*, November 6, 2024.
- Co-author, "Can You Spot a 'Public' Injunction in California?," *American Bar Association*, February 15, 2024.
- Co-author, "Troutman Pepper Publishes 2023 Consumer Financial Services Year in Review and A Look Ahead," *Troutman Pepper*, February 1, 2024.
- Co-author, "Calif. Banking Brief: The Notable Compliance Updates in Q3," *Law360*, October 20, 2023.
- Co-author, "Bipartisan Responsible Innovation Act Limits Howey Test; Suggests Non-Depository Institutions May Issue Payment Stablecoins," *Troutman Pepper*, July 6, 2022.
- Co-author, "Not Your Keys, Not Your Coin: SEC Tells Crypto-Custody Providers to Report Platform Users' Crypto Holdings as Balance Sheet Liabilities," *Troutman Pepper*, April 25, 2022.
- Co-author, "World's Largest Cryptocurrency Exchange Wins Dismissal of Class-Action Lawsuit," *Troutman Pepper*, April 19, 2022.
- Co-author, "Digital Asset Federal Legislation and Regulatory Developments: Wrap Up of First Quarter 2022," *Troutman Pepper*, April 18, 2022.
- Co-author, "New Virginia Law Permits Banks to Provide Virtual Currency Custody Services," *Troutman Pepper*,

April 13, 2022.

- Co-author, "[FTC Enters Consent Agreement With Payment Processor for Opening Merchant Accounts for Fictitious Companies](#)," *insideARM*, March 28, 2022.
- Co-author, "[FinCEN Implores Vigilance From Financial Institutions in Anticipation of Attempted Russia Sanctions Evasion](#)," *Troutman Pepper*, March 16, 2022.
- Co-author, "[Biden Signs Executive Order on Cryptocurrency](#)," *Troutman Pepper*, March 10, 2022.
- Co-author, "[Government Efforts to Address Cryptocurrencies Ramp Up as Federal Reserve Releases Report on Digital Currency](#)," *Troutman Pepper*, February 2, 2022.
- Co-author, "[SoFi Gets OCC Approval to Acquire National Bank — But Must Stay Away From Crypto](#)," *Troutman Pepper*, January 20, 2022.
- Co-author, "[Stablecoins and Beyond: 2022 Digital Asset Legislation Landscape](#)," *Troutman Pepper*, January 18, 2022.
- Co-author, "2019 Consumer Financial Services Year in Review & A Look Ahead," *Troutman Sanders*, February 24, 2020.
- Co-author, "Silence Is Not Golden for Class Arbitration: U.S. Supreme Court Holds that Class Arbitration Agreements Must Be Explicitly Authorized," *Troutman Sanders*, April 25, 2019.

## **MEDIA COMMENTARY**

- Quoted, "[Consumer Protection Cases To Watch In 2020](#)," *Law360*, January 1, 2020.