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**LOS ANGELES OFFICE**

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## Christian J. Scali

**Founder & Managing Partner**

*Co-Chair, Automotive Practice*

Christian Scali has a diverse automotive industry practice that includes advice and counsel and complex and high stakes litigation, involving franchise disputes, lender liability, reinsurance and flooring disputes, consumer finance, consumer and wage and hour class actions, high stakes employment litigation, trade secret misappropriation and corporate shareholder and partnership disputes. Mr. Scali is known throughout the state of California for his work on behalf of the retail automotive industry in a series of advertising lawsuits brought against it under California's Unfair Competition Law resulting, among other things, in the disbarment of consumer advocates, Trevor Law Group, and for his work on the Defense Steering Committee in the massive automobile consumer leasing lawsuit against the entire California retail automotive leasing industry, *In re Vehicle Lease Document Cases*.

He also regularly assists auto dealers and auto dealer groups with their mergers and acquisitions. While he is always a fierce advocate for his clients, when he is engaged on a buy/sell, his focus is on making the deal. Years of litigating buy/sell and commercial lease disputes on behalf of his clients have made him an effective transactional attorney. His ability to recognize the difference between an important or consequential deal point and one that has no real practical advantage or disadvantage, avoids pointless disputes and allows the parties to more quickly get to a deal.

Finally, Mr. Scali also creates effective corporate compliance and ethics programs for his clients and represents clients in regulatory enforcement actions and requests for information.

Mr. Scali is on the Los Angeles County Bar Association (LACBA) Litigation Section Executive Committee. And he is a delegate for the Board of Directors of the Independent Auto Dealers Association of California (IADAC). He co-authored the chapter on confidentiality agreements and non-competes in PLI's 2015 Healthcare Law Handbook. Mr. Scali also authored the California New Car Dealer Association's Advertising Law Manual in 2015 and 2017. In 2018,

### Bar Admissions:

- State Bar of California, 1998

### Education:

- Juris Doctor, The Ohio State University College of Law, 1997
- B.A., Anthropology, Miami University, 1994

### Professional Memberships:

- National Association of Dealer Counsel, Member
- Independent Automobile Dealers Association of California, Board of Directors Delegate
- American Intellectual Property Lawyers Association — Trade Secret Committee and Copyright Committee, Member
- Los Angeles County Bar Association, Labor and Employment and Litigation Sections
- LACBA Litigation Section Executive Committee Member
- American Bar Association, Labor and Employment and Franchise Sections
- LGBT Bar Association of Los Angeles, Board of Governors



the Los Angeles Business Journal named him a Top Litigator in Los Angeles.

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## Representative Matters

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Mr. Scali's representative matters include:

### Advertising:

- Automotive advertising compliance review. The Scali Law Firm was chosen by the California New Car Dealers Association (CNCDA) to draft its 2015 Dealership Advertising Manual. After the manual was complete, Mr. Scali toured the state with CNCDA counsel providing advertising compliance seminars. As a result of that effort, The Scali Law Firm is representing several automobile dealerships providing advertising compliance advice, particularly in the often complex area of digital compliance, where the TCPA, CAN-SPAM Act, California Anti-Spam Act, and various other advertising and privacy laws intersect. The Scali Law Firm is conducting a comprehensive review of website advertising, direct mail, email advertising and text and mobile based advertising practices.
- Automotive dealer advertising compliance programs and training. Provides frequent advertising law compliance seminars for auto dealers and others and creates and implements advertising law compliance programs for auto dealers and others.
- Auto retail internet marketing company representation. Assisted Internet marketing start-up company to develop business and marketing platform acceptable to back-end industry buyers of service, front-end consumers and industry regulators in a dynamic and changing marketplace. Project included legislative and regulatory negotiations and public relations, development and legal review of public messaging, supervising national advertising regulatory review and strategic legal compliance planning to assist client in developing successful and compliant marketing and business platform.
- Auto dealer advertising mass action defense. Represented several automobile dealerships in coordinated actions and copy-cat actions under the Unfair Competition Law (UCL) for state and federal advertising violations; coordinated efforts with California New Car Dealers Association and other dealer counsel in connection with UCL reform, culminating in the proposal and passage of Proposition 64; participated in meetings and efforts that lead to disbarment of The Trevor Law Group.
- Auto dealer single consumer advertising defense. Defends auto dealers and others against numerous single consumer lawsuits alleging advertising violations and handles FTC investigations of advertising practices.

### Consumer Finance and F&I:

- Auto dealer class action defense over leasing practices. Engineered the successful dismissal of over 1,400 auto dealerships as a member of the defense steering committee in coordinated



class actions alleging statutory disclosure violations under the Vehicle Leasing Act and Unfair Competition Law.

- Defeated class certification against auto dealer for alleged illegal F&I practices. Obtained pre-certification dismissal of consumer class action Truth In Lending Act and Automobile Sales Finance Act claims by developing strategies that are used today by California attorneys in defending various truth-in-lending and statutory claims against automobile dealerships.
- Undefeated record of obtaining summary judgment for auto dealers. Obtained numerous summary judgments on behalf of auto dealers and other retailers in consumer fraud cases.
- FCRA and ECOA representation. Litigated and resolved several claims against auto dealers and other retailers under the Fair Credit Reporting Act and Equal Credit Opportunity Act.

### **Employment:**

- Automotive service technician and service advisor wage and hour class action. The Scali Law Firm has successfully resolved several wage and hour class actions brought against its dealership clients. It is currently defending a California automobile dealership against wage and hour claims made against it in a class action brought by its service technicians. The Scali Law Firm is representing another California automobile dealership against wage and hour claims made against it in a class action brought by its service advisors, one of the first wage and hour class actions brought by service advisors against an automobile dealership in California.
- Publically-held automobile dealer group restructuring litigation. The Firm is currently defending a publicly-traded auto dealer group's dealership in an age discrimination lawsuit brought by a former employee. The plaintiff was affected by a facility-wide restructuring that resulted in discharge or reassignment of a number of management-level employees. At issue in this case are the company's legitimate business reasons for the restructuring in the dealership's highly competitive retail environment. The dealership's case focuses on the location's financial performance and customer service objectives as well as the plaintiff's individual performance. This litigation is currently in the discovery phase and will go to arbitration in 2016.
- Successful resolution of numerous discrimination, harassment and retaliation claims against auto dealers and others. Litigated and arbitrated numerous employment discrimination and harassment lawsuits against auto dealers and others. Obtained numerous successful settlements in employment discrimination claims for media and entertainment and retail clients by employing strategies designed to minimize settlement value.
- Blocked confirmation of employee's arbitration award against former employer. After executive employee obtained arbitration award against employer, blocked confirmation of award against employer-related entities by utilizing successful procedural strategies.
- Labor and employment advice and counsel. Advised and counseled auto dealers and other retail and entertainment clients on effective employment policies and making adverse employment decisions.



- FMLA and CFRA advice and counsel. Advised and counseled auto dealers and other retail clients on employee leave issues, including FMLA and CFRA issues.
- EDD and Labor Commissioner hearing representation. Handled claims before the Employment Development Department and the Labor Commissioner.
- Wage and hour class action defense of auto dealers. Litigated wage and hour class actions for auto dealers and other retailers.

### **Franchise:**

- Automobile dealership \$50M debt restructuring, real estate and capital acquisition deal. The Scali Law Firm provided legal counsel to a large and growing dealer group in California in a complicated debt restructuring and real estate and capital acquisition transaction involving multiple parties and many moving parts. This deal allowed the auto dealer group to triple in size and continue to grow.
- Buy/sell representation of auto dealerships. Supervised the purchase and sale of retail automotive franchises and body shops.
- Franchise disputes over attempted factory termination, relocation or addition of auto dealership franchises. Advised clients on and negotiated franchise disputes concerning warranty audits and warranty chargebacks, add points, relocations and terminations.
- Successful resolution of multimillion dollar warranty chargeback disputes on behalf of auto dealers. Litigated multimillion dollar warranty chargeback disputes between franchisors and franchisees.
- Blocked termination of auto dealer franchise after 3 week hearing before the NMVB. Obtained a decision in the dealer's favor before the New Motor Vehicle Board after a three-week hearing involving a protest by an automobile dealership of the manufacturer's attempted addition of a new point with the dealer's relevant market area.
- Blocked factory's attempted denial of auto dealer franchise after 3 week trial in Orange County. Co-chaired a three-week bench trial representing an automobile dealership, resulting in a defense judgment that barred the manufacturer's attempted denial of the automotive franchisee's application for a new franchise, and obtained nearly \$300,000 in attorney's fees for the dealer.

### **Commercial Litigation:**

- Arbitration award for bank on guarantee after liquidation of truck parts business. First-chaired a three-week arbitration representing a bank against Article 9 Commercial Code claims resulting from liquidation of collateral of a truck parts business after it defaulted on its SBA loan; obtained favorable verdict.
- Successful resolution of disputes over buy/sell agreements involving auto dealership assets. Litigated disputes over the purchase and sale of franchises.
- Obtained summary judgment for international parts supplier in against antitrust and fraud claims. In response to a \$3 million collection



action, warehouse distributor brought \$10 million antitrust and fraud claim against parts supplier. After voluminous discovery and motion practice, Mr. Scali and his team obtained summary judgment for parts supplier on both the complaint and cross complaint.

- Flooring inventory disputes. Litigated disputes over the issuance and maintenance of flooring inventory lines of credit.
- Recovery actions on behalf of auto dealers against fraudulent aftermarket service provider. Assisting several clients nationwide in efforts to recover over \$40M in losses incurred as a result of alleged fraudulent insurance scheme perpetrated by insurance broker and insurance company. Supervising team and strategizing efforts to recoup losses in bankruptcy and liquidation proceedings in Utah and Colorado involving defunct national insurance companies, civil litigation actions in MA, NH and CA against insurance brokers and agents, and pursuing other avenues of recourse through state and federal agencies and regulators.
- Commercial real estate litigation. Served as national litigation coordinator to preserve commercial real estate assets after client was allegedly defrauded by business partner, who filed for bankruptcy, leaving client holding over \$100M in debt on personal guarantees. Advised on strategic sales and divestitures of assets while preserving investments in other properties and securing favorable rulings on guarantee actions, saving the client several millions of dollars in assets, providing client time to reorganize.
- Limousine consumer litigation. The Scali Law Firm is representing a New York limousine dealership and upfitter in breach of contract litigation in California. The dispute involves the customization of the limousine and installation of various luxury components and delivery obligations. The Scali Law firm filed a cross-claim against the buyer for false and defamatory online reviews as well as telephone harassment.

### **Trade Secrets:**

- \$10M corporate raiding and automotive dealership trade secret litigation. The Scali Law Firm is defending a dealership group based in Texas in a massive corporate raiding and trade secret lawsuit filed against it and several of its employees by a California dealership group. A related lawsuit involves a request for the involuntary dissolution of the plaintiff dealer group corporations.
- Develops trade secret protection plans. Advised healthcare and retail clients on the development and implementation of trade secret protection plans.
- Successful prosecution of trade secret claims to enjoin bad actors from continuing to use stolen trade secrets. Obtained successful injunction under the CUTSA against a former technology company employee after the employee allegedly stole his former employer's trade secrets and obtained a \$3 million contract with the former employer's customer by use of those trade secrets.
- Successful trial of trade secret claims to victory for defendants. Successfully opposed an injunction under the CUTSA after a three-week arbitration; obtained complete defense of claims under the CUTSA and related torts and a six figure attorney's fees award.



- Successfully enjoined competitor from starting competing business. Obtained injunction under the CUTSA against former healthcare company employee after former employee allegedly stole business model and started a competing business.
- Successfully blocked injunction against company's former employee. Defeated injunction under CUTSA on behalf of financial services company accused of stealing advertising business model of competitor.

### **Consumer Product Safety:**

- CARB representation. Advised national retailer on consumer product safety issues in matter before the California Air Resources Board (CARB).
- FTC and FDA representation. Advise small and international retailers on FTC, FDA and California advertising compliance issues, e.g., slack fill and "all natural" or "organic" claims.
- Proposition 65 representation. Represents and advises auto dealers and other retailers in Proposition 65 "60-Day Notice" claims and lawsuits.

### **Data Security and Privacy:**

- Creation of data security plans. Assisted in the development of health care company's data security plan for compliance with regulatory privacy obligations.
- Auto dealer compliance with GLBA. Assisted several auto dealers and other retailers develop and maintain privacy policies under the Gramm-Leach-Bliley Privacy Act.
- Auto dealer compliance with FTC Red Flags Rule. Assist and advise auto dealers and other retail clients on FTC Red Flags Rule compliance and developed Red Flags compliance programs.

### **Entertainment and Technology:**

- Reviewed and negotiated recording contracts.
- Advised on distribution and production contracts.
- Litigated disputes concerning production contracts.
- Advised clients concerning entertainment industry union issues.
- Advised businesses concerning DMCA take-down notices.
- Advised businesses concerning domain name disputes.
- Advised a casting company on operations issues.
- Advised companies concerning intellectual property licensing and disputes.
- Litigated disputes concerning purported misappropriation of intellectual property.