



## **RACHEL E. MATTEO-BOEHM**

**Partner**

**San Francisco**

**Partner and Co-Global Practice Group Leader - Intellectual Property and Technology**

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### **BIOGRAPHY**

Rachel Matteo-Boehm represents clients on matters involving a variety of content-related issues. Her practice includes litigation, counseling, and special projects that require this subject matter expertise.

A former reporter for *The Dallas Morning News*, Rachel has represented many clients in the media, entertainment, advertising, and arts sectors in a variety of matters involving defamation, privacy, right of publicity, copyright, trademark, and other content-related issues. Clients outside of these industries also regularly seek Rachel's experience in these areas. Because of her focus on content-related issues, Rachel has represented clients in numerous cases involving state anti-SLAPP laws, which are a critical strategic component of U.S. litigation arising from expressive activities.

Rachel's practice has changed over the years along with the relevant technology, moving from the print and broadcast space to online issues and including, most recently, issues involving artificial intelligence. Rachel frequently collaborates with colleagues from BCLP's Data Privacy, Sports & Entertainment, Corporate, and Intellectual Property Practices to provide comprehensive representation to clients needing expertise in related subject areas and multiple geographies across the U.S. and internationally.

Rachel particularly enjoys litigating novel legal issues, and she has handled several precedent-setting cases over the course of her career. These include the first California defamation case to apply the law of opinion within the context of a weblog containing multiple hyperlinks; an action brought under the California Public Records Act seeking access to GIS-formatted mapping records that involved several special issues relating to electronic records and government copyrights; and several precedent-setting federal cases challenging, under the First Amendment, delays in access to publicly accessible court records.

In addition to her own practice, Rachel is co-global practice group leader of BCLP's Intellectual Property & Technology Practice Group, which is home to the firm's Patent, Trademark, Copyright and Trade Secret, and Media & First Amendment Practices. Rachel recently finished a five-year term serving on the Executive Committee of the Media Law Resource Center (President, 2021-22), a New York-based membership association for content providers and distributors and their lawyers.

Rachel began her legal career in Texas and remains licensed in Texas as well as in California.

## CIVIC INVOLVEMENT & HONORS

- *The Best Lawyers In America*, First Amendment Law and First Amendment Litigation, 2009-2025
- *Chambers & Partners USA*, California Media & Entertainment: First Amendment Litigation, 2008-2024
- James Madison Freedom of Information Award for Legal Counsel, Society of Professional Journalists, Northern California chapter, 2008, 2022
- *Best Lawyers in America*, "Lawyer of the Year" (First Amendment Litigation in San Francisco), 2014, 2016, 2018 2020, 2022
- Los Angeles and San Francisco *Daily Journal* Top Women Lawyers, 2013
- California Lawyer Attorney of the Year Award, Public Interest Law, 2010

- *Northern California Super Lawyers*, First Amendment/Media/Advertising, 2010-2021

## PROFESSIONAL AFFILIATIONS

- Media Law Resource Center, Defense Counsel Section, Executive Committee 2019-2023 (President, 2021-22)
- Media Law Resource Center, Defense Counsel Section, Newsgathering Committee Vice-Chair 2018-2019
- Media Law Resource Center, Defense Counsel Section, California Chapter Co-chair, 2011–2013
- Media Privacy and Defamation Law Committee, Tort Trial & Insurance Practice Section, ABA, Vice-chair, 2010–2013
- Student Press Law Center Legal Advisory Committee, Member, 2009
- Freedom of Information Committee of the Northern California Chapter of the Society of Professional Journalists, Co-chair, 1999–2001

## ADMISSIONS

- California, 1998
- Texas, 1996

## EDUCATION

The University of Texas at Austin, J.D., with honors, 1996

University of California-Berkeley, B.A., 1990

## RELATED PRACTICE AREAS

- Intellectual Property and Technology Disputes
- Business & Commercial Disputes
- Litigation & Dispute Resolution
- Business Speech
- Regulation, Compliance & Advisory
- Outdoor Industry
- Sports & Entertainment

- Sports & Entertainment Contract, Endorsement & Celebrity Representation Practice
- Anti-Doping Practice
- Sports & Event Venue Real Estate Infrastructure and Operation
- Naming Rights & Sponsorship Practice
- Sports & Entertainment M&A Practice
- Collegiate Sports Practice
- Sports & Entertainment Specialty Counseling Practice
- Entertainment Industry Practice
- Sports & Event Financing
- Olympic & National Governing Body Practice
- Professional Sports Team Practice
- Copyrights
- Campus Free Expression
- Marketing & Advertising
- Media & First Amendment

## EXPERIENCE

- *Courthouse News Service v. Quinlan*, 32 F.4th 15 (1st Cir. 2022) (reversing district court dismissal on the pleadings in case involving First Amendment right of timely access to newly-filed complaints).
- *Penrose Hill v. Mabray*, 2020 WL 4804965 (N.D. Cal. 2020) (granting motion to dismiss libel action arising from Twitter tweet that linked back to older online commentary on statute of limitations and opinion grounds).
- *Courthouse News Service v. Planet*, 947 F.3d 581 (9th Cir. 2020) (“*Planet III*”) (holding the press and public have a qualified First Amendment right of timely access to newly-filed civil complaints that attaches when a complaint is filed, and even short delays in access must be justified under *Press-Enterprise II* rigorous scrutiny)).
- *Hosszu v. Barrett*, 202 F. Supp. 3d 1101 (D. Ariz. 2016) (granting motion to dismiss libel action arising from online commentary on opinion grounds).
- *Courthouse News Service v. Planet*, 614 Fed. App’x 912 (9th Cir. 2015) (“*Planet II*”) (reversing district court’s Rule 12(b)(6) dismissal, of action brought by nationwide news service against state court clerk for violation of First Amendment right to court records arising from delays in access to newly-filed civil complaints).

- *Ortiz v. Sage*, 2015 WL 4742266 (Cal. Super. Ct. Los Angeles County 2015) (granting anti-SLAPP motion in libel action brought against employee of news service on grounds of, inter alia, fair report privilege, truth, and failure to comply with California retraction statute).
- *Courthouse News Service v. Planet 750 F. 3d 776 (9th Cir. 2014) ("Planet I")* (Reversing district court's dismissal, on federal abstention grounds, of action brought by nationwide news service against State court clerk for violation of First Amendment right to court records).
- *The DSD Network of America, Inc. v. Racetrac Petroleum* (Harris County, Texas, District Court, filed 2012) (in a libel lawsuit against a media entity, obtained nonsuit with prejudice by bringing a motion to dismiss under Texas' one-year-old SLAPP law, the Texas Citizens Participation Act).
- *Redmond v. Gawker Media LLC*, 39 Med. L. Rptr. 2285 (Cal. Super. Ct. San Francisco County 2011) (obtained order under California's anti-SLAPP statute striking defamation plaintiff's lawsuit arising out of weblog post on grounds that post was protected opinion and plaintiff was a limited-purpose public figure who failed to produce evidence of actual malice), *aff'd Redmond v. Gawker Media, LLC*, 2012 Cal. App. Unpub. LEXIS 5879 (2012).
- *Clark v. University of Washington* (Superior Court, State of Washington, King County, filed January 2010) (represented plaintiff in lawsuit brought against the University of Washington under the Washington Public Records Act, which resulted in a settlement under which the University of Washington \$175,000 in attorneys' fees and released research data needed to independently evaluate a highly publicized 2007 study conducted by University of Washington faculty members).
- *Sierra Club v. Superior Court*, 195 Cal. App. 4th 1537 (Cal. Ct. App. 2010); *reversed* 57 Cal. 4th 157 (Cal. 2013) (authored amicus briefs in California Court of Appeal and California Supreme Court on behalf of numerous media and public interest organizations in case brought under Public Records Act involving application of "software exemption" to GIS – formatted electronic mapping records).
- *Courthouse News Service v. Jackson*, 38 Media L. Rptr. 1890, 2009 U.S. Dist. Lexis 62300 (S.D. Tex. 2009) (granting news service's motion for a preliminary injunction and ordering Harris County District Clerk to provide same-day access to new civil petitions; finding that prior 24 to 72 hours delay in access "is effectively an access denial and is, therefore, unconstitutional" under the First Amendment); 38 Media L. Rptr. 1984 (S.D. Tex. 2010) (stipulated permanent injunction requiring District Clerk to provide same-day access to new civil petitions and awarding Courthouse News Service its attorneys' fees in the amount of \$253,416.69).
- *County of Santa Clara v. Superior Court*, 170 Cal. App. 4th 1301 (Cal. Ct. App. 2009) (on behalf of the California First Amendment Coalition, obtained rulings at both the trial court and court

of appeal levels requiring the County of Santa Clara to make electronic copies of its GIS mapping records available under the California Public Records Act without restrictions on use and for a fee that does not exceed what the Act allows; and obtaining subsequent settlement of \$500,000 in attorney's fees and costs, believed to be the largest ever fee/cost payment in an action brought to enforce the Public Records Act).

- *Maplight v. Office of the Legislative Counsel* (Cal. Super Ct. Sacramento County) (in Public Records Act case against the Office of the Legislative Counsel of California, obtained 2009 settlement providing for publicly-accessible machine-readable version of database containing information as to how state legislators voted and payment of \$65,000 in attorneys' fees).
- *Keene v. MediaNews Group, Inc.*, 37 Media L. Rptr. 1833 (Cal. Super. Ct. Lake County 2008) (obtained order striking defamation lawsuit against newspaper under anti-SLAPP statute, Code of Civil Procedure § 425.16, and subsequent order awarding the newspaper's attorney's fees in full), *aff'd Keene v. Lake Publishing Co.*, 38 Media L. Rptr. 1493 (Cal. Ct. App. 2010) (unpublished).
- *Beinin v. Center for the Study of Popular Culture*, 35 Media L. Rptr. 1527 (N.D. Cal. 2006) (in copyright infringement case against a publisher, obtained order blocking plaintiff's attempt to obtain more intrusive defamation-type discovery).

## RESOURCES

### PUBLICATIONS

- Co-Author, "Recent Cases Address Requirement That Access To Court Records Be Contemporaneous (Or Timely)," *The Communications Lawyer*, Summer 2020
- Co-Author, "Recent Cases Find That Lawsuits Challenging State Court Access Delays Belong In Federal Court," *The Communications Lawyer*, Summer 2020
- Co-Author, "Survey Of California Privacy And Related Claims Against The Media," *Media Law Resource Center*, 2009–2016
- Co-Author, "Immunity Of A Website Owner Or Operator For User Generated Content That Infringes Trademarks," *International Trademark Association Annual Meeting*, May 2009
- "Takedown Notices Under § 512 Of The DMCA: Lingering Issues, Nine Years Later," *Mealey's Litigation Report: Intellectual Property*, December 2007
- Co-Author, "The Right To Know: A Guide to Public Access and Media Law," *California Newspaper Publishers Association and California First Amendment Coalition*, 2007

- Co-Author, "Maintaining Good Form: The Copyrightability of Blank Forms," April 2002

## SPEAKING ENGAGEMENTS

- Facilitator, "Hot Issues in Anti-SLAPP," ABA Forum on Communications Law 29<sup>th</sup> Annual Conference, February 2024
- Panelist, "AI in Art, IP and Your Investment," APEC 2023: The Future Starts in California, November 14, 2023
- Panelist, "Communications Law In the Digital Age 2022," Practising Law Institute, November 9, 2022
- Panelist, "Access To Court Records: A Review of Recent Case Law" ABA CLE webinar, May 19, 2020
- Moderator, "Anonymous Speech and the Dark Web: Resolving the Tension Between First Amendment Rights and Online Threats to Reputation, Privacy and Public Safety," Media and the Law 30th Annual Seminar, May 2017
- Facilitator, "Hot Issues In Access and Newsgathering," ABA Forum on Communications Law 20th Annual Conference, February 2015
- Co-Chair, "Intellectually Property Breakout Session," MLRC/NAA/NAB Media Law Conference, September 2014
- Moderator, "Legal Considerations With Social Media And Other Digital Platforms," California Newspaper Publishers Association 2012 Press Summit, May 2012
- Facilitator, "Defamation in a Digital World," 2010 NAB/MLRC/NAA Media Law Conference, September 2010
- Panelist, "Every Step You Take: Has Privacy, As Americans Have Come To Know It, Ceased To Exist?" Media and the Law 23rd Annual Seminar, April 2010
- Panelist, "Trademarks And The Internet: 4 Reasons Why Trademark Lawyers Are Now Media Lawyers (Whether You Know It Or Not)," International Trademark Association Annual Meeting, May 2009
- Facilitator, "Hot Issues In Newsgathering," ABA Forum on Communications Law 14th Annual Conference, February 2009
- Panelist, "FOI/Open Records," Investigative Reporters and Editors Watchdog Workshop, January 2009



- Speaker, “Online News: Redefining Journalism,” Media Law Resource Center Institute’s First Amendment Speakers Bureau, October 2008
- Moderator, “Workshop: Accessing Government Databases,” California First Amendment Coalition 13th Annual Free Speech & Open Government Assembly, October 2008
- Panelist, “Wine Sales In An Information Age: Legal Risks On And Offline,” Wine Industry Technology Symposium, July 2008
- Moderator, “Current Developments in Access Law,” and Speaker, “Investigative Reporting Using Digital Mapping Technology,” California First Amendment Coalition 12th Annual Free Speech & Open Government Assembly, October 2007
- Moderator, “Access to Public Records,” California First Amendment Coalition 11th Annual Free Speech & Open Government Assembly, September 2006
- Panelist, “Allies In Intellectual Freedom: Library, Legislature, Media,” Association for Library Trustee and Advocates Closing Session, June 2001

## RELATED INSIGHTS

Insights

Nov 14, 2024

### **AI & Your Business: Libel Risks**

As lawyers who often defend defamation suits, we know from experience that it’s not just media defendants who are sued for libel. Defamation suits are routinely filed against all sorts of businesses, arising from all kinds of content and communications. As the pressure to compete pushes more businesses to incorporate generative AI into their content-creation processes, it is important to be mindful of the different ways a libel lawsuit might arise. This applies to text, images, video, audio, and all other types of content and information. We expect to see a flurry of cases stemming from AI-generated content in the coming years falling into one of these four general categories: Libel by juxtaposition: This can result where truthful information about two different individuals or entities is juxtaposed as part of generative AI output, making it seem like the output is about the same person or entity. Libel by hallucination:...

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### **Department of Education issues Dear Colleague Letter as student protests continue**

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### **The Best Lawyers in America® 2024**

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## California's expansive new children's online privacy law faces first amendment challenge

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