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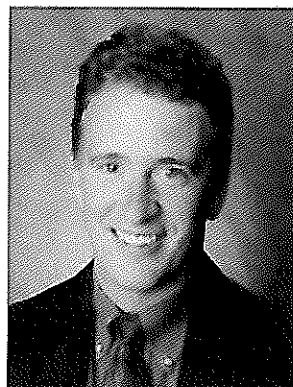
Davis Wright Tremaine LLP

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Thomas R. Burke

Partner- San Francisco, California Office

Areas of Practice

Thomas R. Burke concentrates his practice on Internet, media law, and entertainment litigation matters and has nearly two decades of trial and appellate court litigation experience defending libel, invasion of privacy, right of publicity, shield law, and copyright and trademark lawsuits on behalf of publishers, websites, networks, studios, authors and journalists.

Areas of Practice
 Media
 Internet & eCommerce
 Intellectual Property
 Litigation
 Newspapers &
 Publishing
 Technology
 Finance and
 Commercial Law
 Privacy & Security

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Outlook vCard:

A veteran newsroom lawyer, Mr. Burke is experienced in obtaining access to public records and closed government proceedings, protecting First Amendment rights using California's anti-SLAPP statute, and vetting books, articles, scripts and web content on a pre-publication basis.

Increasingly, Mr. Burke's practice focuses on Internet liability issues, including DMCA (copyright) and Section 230 immunity issues, domain ownership disputes, and online privacy and data breach issues across all industries.

Recent Representative Experience

In *Taus v. Loftus*, in the Court of Appeal and California Supreme Court, obtained dismissal of claims in complex defamation and invasion of privacy lawsuit against prominent psychologists and national magazine arising from the scientific debate over "repressed memories" of alleged sexual abuse

Represented national media coalition to successfully oppose and vacate a prior restraint order issued by a federal court in San Francisco against Wikileaks.org after confidential Swiss banking records were posted to this whistleblower website

Co-authored media amici brief to support Internet free speech rights and Section 230 in *en banc* proceedings before the Ninth Circuit Court of Appeals in *Fair Housing Council v. Roommates.com*

Currently defending the free speech rights of CAIR, the nation's largest Muslim civil rights organization, in a copyright/RICO lawsuit brought by nationally-syndicated radio talk show personality Michael Savage

Regularly vets books for authors and publishers, news articles for newspapers and magazines and provides script advice and counseling for network entertainment programs including the Golden Globe-winning series *Mad Men*, and websites, including iReport.com and CNN.com

Successfully prosecuted Freedom of Information lawsuits to compel the FBI, TSA and U.S. Treasury (Office of Foreign Assets Control) to publicly release hundreds of records about the federal government's creation, use and inherent problems for innocent Americans affected by the "no fly" "selectee" watch lists to screen airline passengers and the "no buy" terrorist watch list after 9/11

Counsel to Sierra Club in obtaining dismissal of lawsuits targeting the First Amendment-protected activities of the nation's largest grassroots environmental organization during its controversial 2004 national board of directors election

Obtained summary dismissal in the trial and appellate courts of a trade libel lawsuit brought against attorney's newspaper advertisement seeking potential representatives for a class action lawsuit

Successfully defended "*America's Most Wanted*" television program against federal criminal defendant's pre-trial subpoena seeking unpublished video outtakes in nearly four-year dispute; subpoena withdrawn following favorable rulings by the Ninth Circuit Court of Appeals

Successful defense of satellite television station in a complex copyright infringement lawsuit involving the ownership of three Iranian films

Successfully defended Paramount Pictures in trademark, dilution and unfair competition claims based on use of *Slip 'N Slide* yard toy in motion picture and associated advertising and interactive website game, establishing precedent for the unauthorized use of trademarked products in entertainment programming

Prior Experience

Extern law clerk to the Hon. Marilyn Hall Patel,

U.S. District Court Judge - Northern District of California

Representative Clients

Association of Alternative Newsweeklies, *The Bakersfield Californian*, *California Lawyer Magazine*, Chico Community Publishing, CNN, California Newspaper Publishers Association, Lions Gate Entertainment, *The Los Angeles Times*, McClatchy Newspapers, The New York Times Co., *San Francisco Bay Guardian*, *San Francisco Business Times*, *San Francisco Examiner*, Sierra Club, Western Communications

Publications and Presentations

Speaker, "Its Everyone for Themselves: Managing the Legal Challenges of User Generated Content," *The Digital Earthquake: Groundbreaking Changes Affecting Entertainment and Media Law*, 5th Annual Conference, Southwestern Law School, Los Angeles, CA, January, 2008

Author, "Post Wikileaks: The Law of Prior Restraint Transformed," *News Media & The Law* (Spring, 2008)

Speaker, "Subpoenas to the Media: Should There Be a Federal Reporter's Privilege?," Bar Association of San Francisco, January, 2008

Co-Editor, *The Right to Know: A Guide to Public Access and Media Law*, CNPA/CFAC, 2007

Author, "Is your Website Accessible to All?," *DWT Advisory Bulletin*, October 2007

Speaker, "Section 230 Hypotheticals After Roommates.com," California Chapter of the Media Law Resource Center, Los Angeles, CA, September, 2007

Co-Author, "The Uncertain Future of Section 230 and Liability for Mixed-Content Websites," *e-Commerce Law Report*, November, 2007

Panelist, "Media Mutation: A Fateful Force in Press Freedom," 20th Annual Media & the Law Seminar, Kansas City, MO, May, 2007

Speaker, California's Anti-SLAPP Law and Environmental Litigation, Second and Third Annual Environmental Law Forum, University of California, Berkeley, March, 2006, 2007

Speaker, Digital Publishing Issues, ECPA Publishing University, Chicago, IL, November,

2006

Panelist, Citizen Witness, Second Annual William G. McGowan Forum on Communications, Technology and Government, The National Archives, Washington, D.C., November, 2006

Moderator, Internet Legal Issues, Media Law Resource Center's Bi-Annual Conference, Alexandria, VA, October, 2006

Speaker, Current Internet Legal Issues, Association of Alternative Newsweeklies Web Publishing Conference, San Francisco, CA, October, 2006

Instructor, Current Libel, Privacy and Internet Issues, ASNE High School Journalism Institute (2004-2006), University of California, Berkeley

Author, "Internet Search Terms: Embedded Privacy Issues," *Privacy & Data Security Law Journal*, April 2006

Panelist, Trade Secrets and First Amendment Issues, 30th Annual Intellectual Property Institute, Napa, CA, November, 2005

Author, "SLAPP Happy? California's anti-SLAPP statute has been undergoing some changes," *The Recorder*, 2006

Co-Author, "Confronting Blog Spam," *GC New York*, July 2005

Co-Author, "Cyber Outlaws: Tracking Spammers, Phishers and Cybersquatters," *The New York Law Journal*, April 18, 2005

Author, "Disabilities and Internet Site Design," *Internet Law & Practice* (Thomson/West 2002-present)

Co-Editor, *The Reporter's Handbook on Media Law* (Current Ed.), published by the California Newspaper Publisher's Association

Co-Author, "Access to the Courts," (Chap. 7), *The Courts and the News Media* (1993 & 2002 Eds.), published by the California Judges Association

Co-Author, "Navigating the Web of Rules Governing Internet Advertising," *DWT First Amendment Law Letter*, Summer 2002

Co-Author, "Notice Requirements Help

Journalists Facing Abusive Subpoenas," *DWT First Amendment Law Letter*, Winter 2002

"Newspaper Publishing on Internet Time: A U.S. Perspective," Speech to the 7th Annual Editor's Forum/World Association of Newspapers, Rio de Janeiro, Brazil, June, 2000

Author, "Online Correction Policies: Reducing Defamation Exposure," *ABA Media Law and Defamation Torts Committee News*, Summer 1999

Activities and Honors

Lecturer, J255, Law & Ethics, Graduate School of Journalism, University of California, Berkeley, Fall 2002 to present

Member, California Commission for Impartial Courts: Task Force on Judicial Candidate Campaign Conduct, 2007-present

Member, Governing Board, ABA Forum on Communications Law (2008-present)

Member, International Bar Association (2007-present)

Co-Chair, Freedom of Information Committee, Northern California Chapter of the Society of Professional Journalists, 2006 to present

Co-Chair of the Media Defense Resource Center's Internet Law Committee, 2004-2006

Legal Advisor, California First Amendment Coalition, 1990 to present

Named as one of the "Best Lawyers in America" in First Amendment Law (2004-2008) and Media Law (2007-2008) by *Woodward/White*

Recognized for Media & Entertainment matters in *Chambers USA: "America's Leading Business Lawyers,"* 2003-2007

Named as one of the "Lawdragon's 3,000 Leading Lawyers in America" in 2006

Recipient, 2002 James Madison Freedom of Information Award for Legal Counsel, Northern California Chapter of the Society of Professional Journalists

Education

J.D., *magna cum laude*, University of San Francisco School of Law

B.S., *magna cum laude*, Arizona State University



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