

MARTY HARPER
Shareholder

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Marty Harper is the chair of Polsinelli Shughart's Western Region Business Litigation practice. With over 38 years experience, Mr. Harper has represented a wide range of entities in a diverse array of large complex civil litigation matters. He is an AV® peer reviewed litigator who has been included in *Best Lawyers in America* for his experiences in Commercial Litigation, Construction and Labor and Employment Law.

Mr. Harper is the immediate past chair of Mackrell International, a leading network of law firms from around the world. Mr. Harper was the chair of Mackrell International from June 2008 through May 2011. This network allows firms to remain close to their clients while at the same time offering them the expertise and knowledge obtained by professionals in other jurisdictions. In his role as chairman, Mr. Harper had a dynamic impact on the shape of the organization, adding 20 quality law firms to its membership to assist clients in reaching their on-going global legal needs during his tenure as chair. Mr. Harper's position required him to chair meetings around the globe, from Hanoi, Vietnam to Budapest, Hungary, Charleston, South Carolina and Athens, Greece.

Areas of Practice

Business Litigation

Representing businesses, financial institutions and individuals in contract, distribution and franchise disputes, stock valuation disputes, securities fraud, partnership and shareholder claims, lender liability breach of fiduciary duty, business torts and general commercial litigation.

Construction Law

Representing owners, general contractors, major subcontractors and design professionals on public and private projects in contract drafting and negotiation, claims preparation, arbitration and trial of claims, surety claims, job site injuries and design professional liability issues.

Labor and Employment Law

Representing large groups of pilots and other airline employees in disputes with their union and others arising under the Railway Labor Act; owners and key employees in non-compete and trade secret disputes.

Memberships and Affiliations

- Lawyer's Committee for Civil Rights Under Law
 - Board of Directors (1998 - 2008)
- Maricopa County Bar Association
- State Bar of Arizona
 - Labor Committee
 - Construction Committee
- General Counsel for the Arizona State Democratic Party (1997-2008)
- American Bar Association

Distinctions

- Selected as one of *Arizona's Finest Lawyers*, 2011
- Selected for inclusion in *The Best Lawyers in America*
 - 2009-present, "Bet the Company" disputes
 - 2009-present, Construction Law

Departments

- Trial

Practice Areas

- Business Litigation
- Accounting Litigation
- Antitrust
- Banking and Financial Services Litigation

Education

- J.D., *magna cum laude*, Arizona State University-Sandra Day O'Connor College of Law, 1973
- B.A., Gonzaga University, 1965

Admissions

- Arizona, 1973

Court Admissions

- U.S. District Court, Arizona
- United States Supreme Court
- U.S. Court of Appeals, Fifth Circuit
- U.S. Court of Appeals, Tenth Circuit
- U.S. Court of Appeals, Ninth Circuit
- Supreme Court of Arizona
- U.S. District Court, Southern District of Texas
- U.S. District Court, Northern District of

- 2006-2009, 2001, Commercial Litigation
- 1987-1992, 2009-present, Labor and Employment
- Recognized by *Super Lawyers Magazine* (2005-2009)
- Selected for inclusion in *Southwest Super Lawyers* 2010, 2011 for General Litigation
- *AZRE's Top People to Know in Commercial Real Estate 2011*, for Commercial Litigation

- Texas**
- U.S. District Court
 - Arizona Court of Appeals
 - Denver Bankruptcy Court
 - District Court in Denver
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EXPERIENCE

Marty Harper has substantial experience in all types of commercial business and construction litigation.

Mr. Harper has represented owners, architects, developers and contractors in various construction related matters throughout Arizona. He also has experience in labor relations and argued a significant labor case before the U.S. Supreme Court in January, 1991. Mr. Harper recently represented approximately 1800 former American West Pilots in a high profile case against the pilots' Union, USAPA. Mr. Harper obtained a permanent injunction against the Union after a 9 day jury trial in federal court.

Recently, Mr. Harper represented:

- A putative class of employees in a state-wide class action against Wal-Mart.
- A certified class in a state-wide class action against Microsoft.
- A national trucking firm in a large class action consisting of approximately 19,000 drivers.
- Several bankruptcy trustees in large bankruptcy matters in Arizona.
- A certified class of 1800 former America West pilots.
- A national accounting group in five related securities/malpractice actions in state and federal court.
- A national law firm in a malpractice/fraud case.

Mr. Harper has previously represented:

- An accounting firm in significant, high profile litigation in Arizona.
- A client from Alaska, recovering damages for the tortious interference of a significant business opportunity in the State of Washington.
- The bankruptcy trustee for MarkAir Airlines in Alaska, recovering \$16.5 million in a breach of contract dispute.
- The bankruptcy trustee for Kaiser Steel, recouping more than \$65 million following a leveraged buyout.
- More than 400 Continental Airline pilots following the 1981 strike at Continental Airlines, recovering more than \$20 million for the pilots.

Significant represented decisions:

- *Garza v. Swift Transp. Co., Inc.*, 2009 WL 2579527, (Ariz. Aug 24, 2009)
- *Arizona State Democratic Party v. State of Arizona*, 210 Ariz. 527, 115 P.3d 121 (2005).
- *Southwest Holdings, L.L.C. v. Kohlberg & Co.*, 325 B.R. 417, 424 (Bankr. D. Ariz. 2005).
- *Southwest Holdings, L.L.C. v. Kohlberg & Co.*, 315 565-576 (Bankr. D. Ariz. 2004).
- *Bunker's Glass v. Pilkington*, 206 Ariz. 9, 75 P.3d 99 (2003).
- *In re Kaiser Steel Corporation*, 998 F.2d 783 (10th Cir. 1993).
- *Airlines Pilots Association, International v. O'Neill*, 499 US 65, 111 S.Ct. 1127, 113 L.Ed.2d 51 (1991).
- *O'Neill v. Airlines Pilots Association, International*, 939 F.2d 1199 (5th Cir. 1991).
- *Biltmore Associates, LLC v. Twin City Fire Ins. Co.*, ---F.3d---, 2009 WL 1976071 (9th Cir. Jul. 10, 2009).
- *Addington v. US Airline Pilots Ass'n*, 588 F. Supp.2d 1051 (D. Ariz. 2008).
- *Addington v. US Airline Pilots Ass'n*, 2009 WL 2169164 (D. Ariz. July 17, 2008).

KELLY J FLOOD
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Kelly J. Flood is a Shareholder in the Arizona office. She has over 10 years of experience as a civil litigator, representing numerous entities and persons in complex civil and class action litigation. Ms. Flood handles civil litigation at all stages, including appeals.

Memberships and Affiliations

- State Bar of Arizona
 - Civil Practice and Procedure Committee - 2008-present
 - Arizona Attorney Magazine Editorial Board - 2006-2009
- Lawyer Representative to the 9th Circuit Judicial Conference
- Lawyers' Committee for Civil Rights Under Law
 - Board of Directors
- Sandra Day O'Connor Inn of Court
 - President 2004-2005
 - Pupilage Group Leader
 - Member 1999-present
- Maricopa County Bar
- American Bar Association

Distinctions

- *AZRE's Top People to Know in Commercial Real Estate 2011-2012*, for Commercial Litigation
- Selected as one of *Arizona's Finest Lawyers*, 2011
- Recognition by *AZ Business Magazine's "Top Lawyers List"*, 2009
- *Future Star* recognition by *Benchmark Litigation*, 2009-2011

EXPERIENCE

Ms. Flood's representative experience includes:

Ms. Flood has significant experience in a variety of areas of commercial and class action litigation. She has also represented parties in election law contests, and in the area of campaign finance law. Ms. Flood also has experience handling and arguing appeals at the Arizona Court of Appeals and Arizona Supreme Court, and briefing appeals at the Ninth Circuit Court of Appeals.

Recently, Ms. Flood represented:

- A class of pilots of a merged airline in an action for breach of the duty of fair representation against the union created by the other merging airline's pilot group
- A putative class of employees in a state-wide class action against Wal-Mart.
- A certified class in a state-wide class action against Microsoft.
- A national trucking firm in a large class action consisting of approximately 19,000 drivers.
- Several bankruptcy trustees in large bankruptcy matters in Arizona.
- A major Arizona car dealership in two consumer fraud class actions.
- A national company in a significant business dispute in Arizona.

Departments

- Trial
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Practice Areas

- Business Litigation
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Education

- J.D., Arizona State University-Sandra Day O'Connor College of Law, 1999,
 - Graduate Scholarships; Research Assistantship
 - M.A., English, Arizona State University, 1995,
 - Graduate Scholarships; Teaching Assistantships
 - B.A., English, *Dean's List*, Arizona State University, 1988,
 - Regents' Academic Scholarships
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Admissions

- Arizona, 1999
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Ms. Flood has previously represented:

- An accounting firm in significant, high profile litigation in Arizona.
- The owner of a major construction supply business in trial against defendants engaged in fraud.
- A victim of equity skimming in successful litigation to clear title to real property.

Significant reported decisions:

- *Addington v. U.S. Airline Pilots Ass'n*, 606 F.3d 1174 (9th Cir. 2010)
 - *Addington v. U.S. Airline Pilots Ass'n*, 588 F. Supp.2d 1051 (D. Ariz. 2009)
 - *Garza v. Swift Transp. Co., Inc.*, 222 Ariz. 281, 213 P.3d 1008 (2009)
 - *Biltmore Associates, LLC v. Twin City Fire Ins. Co.*, 572 F.3d 663 (9th Cir. 2009)
 - *Sklar v. Town of Fountain Hills*, 207 P.3d 702, (Ariz. App. Div. 1 Nov 25, 2008)
 - *Osuna v. Wal-Mart Stores, Inc.*, 151 P.3d 1267, (Ariz. App. Div. 2 Feb 08, 2007)
 - *Charles I. Friedman, P.C. v. Microsoft Corp.*, 141 P.3d 824, (Ariz. App. Div. 1 Aug 24, 2006)
 - *Arizona State Democratic Party v. State of Arizona*, 210 Ariz. 527, 115 P.3d 121 (2005)
 - *Southwest Holdings, L.L.C. v. Kohlberg & Co.*, 325 B.R. 417, 424 (Bankr. D. Ariz. 2005)
 - *Southwest Holdings, L.L.C. v. Kohlberg & Co.*, 315 565-576 (Bankr. D. Ariz. 2004)
 - *Nader v. Brewer*, 386 F.3d 1168, (9th Cir., Oct 15, 2004)
 - *Bunker's Glass v. Pilkington*, 206 Ariz. 9, 75 P.3d 99 (2003)
 - *Republic Nat. Bank of New York v. Pima County*, 25 P.3d 1, (Ariz. App. Div. 2 Apr 03, 2001)
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ANDREW S JACOB
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Not only is Andrew S. Jacob an experienced attorney, but Dr. Jacob spent 15 years as a practicing interventional cardiologist. After clerking for the Honorable Barry Silverman on the United States Ninth Circuit Court of Appeals, he joined the Firm's complex litigation team in Phoenix. He also earned admission to the Ninth Circuit Court of Appeals.

During his tenure as a physician, Dr. Jacob chaired multiple medical staff committees, actively consulted for the Health Services Advisory Group and the Arizona Medical Board, and served on the board of the Scottsdale PHO. He authored several publications, served on the editorial board of a peer review journal, and was recognized as the Teacher of the Year at Scottsdale Healthcare in 2000, just prior to beginning his legal studies.

Memberships and Affiliations

- State Bar of Arizona
- Mission of Mercy, mobile medical unit that provides free medical care to the uninsured, working poor and homeless of Maricopa County
 - Member of Arizona Leadership Council

Distinctions

Known by some in the Arizona office as the lawyer's lawyer, Mr. Jacob focuses his practice on the complex legal analysis required by our more difficult cases.

One of the leading attorneys on a challenging labor union unfair representation case, Mr. Jacob played an integral role in formulating and implementing the successful legal strategy that resulted in a rare plaintiffs win.

EXPERIENCE

Significant Representative Decisions

- *Biltmore Associates, LLC v. Twin City Fire Ins. Co.*, 572 F.3d 663, (9th Cir. 2009).
- *Addington v. US Airline Pilots Ass'n*, 2009 WL 2169164 (D. Ariz. July 17, 2009).
- *Addington v. US Airline Pilots Ass'n*, 588 F. Supp.2d 1051 (D. Ariz. 2008).
- *Garza v. Swift Transp. Co., Inc.*, 222 Ariz. 281, 213 P.3d 1008 (2009).
- *Valley Forge Ins. Co. v. Sam's Plumbing, LLC*, 220 Ariz. 512, 207 P.3d 765 (2009).
- *In re Southwest Supermarkets, LLC*, 376 B.R. 281 (Bankr. D. Ariz. 2007).
- *In re Southwest Supermarkets, LLC*, 325 B.R. 417, 424 (Bankr. D. Ariz. 2005).
- *In re Southwest Supermarkets, LLC*, 315 B.R. 565 (Bankr. D. Ariz. 2004).
- *Lubin v. Thomas*, 213 Ariz. 496, 144 P.3d 510 (2006).

Departments

- Trial

Practice Areas

- Appellate Practice
- Business Litigation

Education

- J.D., *magna cum laude*, Arizona State University-Sandra Day O'Connor College of Law, 2003, *Order of the Coif*; Pedrick Scholar; Judge Mary B. Schroeder Federal Practice Award; Center Scholar (Center for Law, Science, and Technology); Outstanding Graduate
- M.D., Duke University Medical School, 1976
- B.A., *summa cum laude*, University of Massachusetts, 1972

Admissions

- Arizona, 2003

Court Admissions

- Supreme Court of Arizona, 2003
- U.S. Court of Appeals, Ninth Circuit, 2004
- U.S. District Court, District of Arizona, 2004

KATHERINE V. BROWN
Associate

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Katie Brown is an associate in the firm's business litigation practice group. She has experience in complex civil disputes and class action cases.

Ms. Brown's most notable experience at Polsinelli occurred in the spring of 2009, where she played an integral role representing a plaintiffs group of over 1800 commercial airline pilots in the trial of a complex class action case in the U.S. District Court in Arizona. This case involved the breach by a labor union of its duty to fairly represent its members. After a hard-fought trial on liability for injunctive relief, including matters of first impression in the Ninth Circuit, the jury returned a verdict in favor of the plaintiffs on liability for breach of the duty of fair representation. The U.S. District Court then entered an order for permanent injunctive relief to require the union to fulfill its obligations to represent the pilot group fairly.

While Ms. Brown has been practicing law since 2008, prior to practicing law she has worked as a financial analyst in litigation support consulting, specializing in business valuation and calculating damages arising in breach of contract and business interruption cases. Ms. Brown also has extensive experience in athletic administration and NCAA Rules Compliance after working in various Division I athletic departments across the country. Ms. Brown also has gained experience in corporate governance and corporate transactions after working for the in-house legal counsel of a regional commercial air carrier.

Memberships and Affiliations

- State Bar of Arizona
- Phoenix Regional Sports Commission, Board Member, 2011
- Arizona Animal Welfare League, Silent Auction Committee Member

Departments

- Trial
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Practice Areas

- Business Litigation
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Education

- J.D., Arizona State University-Sandra Day O'Connor College of Law, 2008, CALI Award Pedrick Scholar
 - M.A., Exercise and Sport Science-Sport Administration, University of North Carolina, 2003, John E. Billing Outstanding Graduate Student Research Award 2003
 - B.S., Business Administration, Finance, *Dean's List*, Trinity University, 2000, SCAC Academic Honor Roll
SCAC All-Conference Track & Field Athlete
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Admissions

- Arizona, 2008
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Court Admissions

- U.S. District Court, District of Arizona, 2008
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