

# Daily Journal

JANUARY 25, 2023

## Leading COMMERCIAL LITIGATORS 2023



### Joseph R. Saveri

JOSEPH SAVERI LAW FIRM LLP  
SAN FRANCISCO

LITIGATION

Joseph R. Saveri has been a successful antitrust class action attorney for plaintiffs for many years. Just last month, for example, he received final approval of the last settlements wrapping up eight years of litigation over price-fixing in the market for some types of capacitors. Those and earlier settlements totaled nearly \$605

million. Saveri's firm was the sole lead counsel. *In Re Capacitors Antitrust Litigation*, 3:17-md-02801-JD (N.D. Cal., filed Dec. 5, 2017).

He is actively pursuing cases alleging antitrust violations involving competitive cheerleading, Juul e-cigarettes, and professional wrestling.

But over the last several months, he has brought class litigation to bear on the very different fields of artificial intelligence and machine learning.

A significant issue with the commercial use of AI is that it must be trained on data from various sources. Those sources were created by people who often have property, copyright, or contractual rights, he said. "And to the extent that these AI products are using that property or monetizing it or commercializing it without negotiating or paying [the creators] ... it's a significant issue."

In November, he and co-counsel Matthew C. Butterick sued Microsoft, alleging that its AI-powered software-development platform Copilot helps programmers create new programs by borrowing code stored in Microsoft subsidiary GitHub's vast repository of open-source programs. But it does so without acknowledging those programs' authors as their open-source licenses require. *J. Doe 1 v. Git-Hub Inc.*, 4:22-cv-06823 (N.D. Cal., Nov. 3, 2022).

"The problem is the product, in large measure, just suggests large copies of code that other people wrote," he

said. Despite its sophisticated statistical models and processing power, it is just "a search and cut-and-paste tool."

Early this month, Saveri and Butterick filed a very similar action against a company whose platform allows users to create images in the style of other artists based on works it previously downloaded — but again without paying or obtaining consent from those artists. *Andersen v. Stability AI Ltd.*, 3:23-cv-00201 (N.D. Cal., filed Jan. 13, 2023).

"We claim that these products are collage tools, kind of cut-and-paste tools," Saveri said. "The underlying data is basically art created by artists, and those artists have a variety of property rights in their works, including copyright."

The GitHub case isn't the only lawsuit Saveri brought against Microsoft recently. Along with the Alioto Law Firm, he sued the company to stop its announced \$68.7 billion acquisition of Activision Blizzard Inc. Microsoft has moved to stay the case, he said. *Demartini v. Microsoft Corp.*, 3:22-cv-08991 (N.D. Cal., filed Dec. 20, 2022).

Saveri recalled that he also litigated against Microsoft during what were called the browser wars in the 1990s. "In a lot of ways, there are things about this ... that are reminiscent of that."

— DON DEBENEDICTIS

# Daily Journal

JANUARY 25, 2023

## Leading COMMERCIAL LITIGATORS 2023



### Steven N. Williams

JOSEPH SAVERI LAW FIRM LLP  
SAN FRANCISCO  
LITIGATION

Over the last decade, Steven N. Williams has been named lead or co-lead counsel in a multitude of commercial litigation, specializing in plaintiffs-side class action cases. He has also represented private companies such as E. & J. Gallo Winery in private litigation as well as successfully defended foreign corporations in international arbitrations.

He and his team have recovered more than \$2 billion for his clients against industry giants such as in commercial industries ranging from capacitors to auto parts, as well as tech giants such as Facebook and YouTube. He has also briefed and argued cases which resulted in significant rulings in federal and state courts that have expanded the right of claimants.

While representing plaintiff Selena Scola and more than 14,000 content moderators who worked for Facebook from 2017-18, Williams served as co-lead counsel in an action against the social media company. *Scola v. Facebook, Inc.*, 18-CIV-05135 (San Mateo Sup. Ct., filed Sept. 21, 2018).

The suit alleged that content moderators responsible for viewing and removing offensive and disturbing content from users of the site suffered from PTSD and other trauma-related injuries because they were not being properly protected by the company.

In May 2020, the class reached a settlement with Facebook for \$52 million to fund ongoing mental health treatment and other payments to the moderators. On July 14, 2021, the court granted final approval of the settlement that provided substantive workplace changes designed to mitigate the psychological harm that can be caused by routinely viewing objectionable conduct.

Following the success of the *Facebook* settlement, Williams led yet another successful suit against YouTube for sim-

ilar allegations. "We were really happy with the idea of doing the same type of settlement we did in the *Facebook* case," Williams said. "Except this one was more of a 2.0 type case because we learned [from the prior case] things like it's really important to these people that they control how they seek remedies and relief for the psychological issues that they have suffered."

The suit alleged that content moderators responsible for viewing and removing offensive and disturbing media posted by YouTube users suffered from psychological trauma and PTSD and were not protected by the social media company. *Jane Doe v. YouTube, Inc.*, 20-cv-07493 (N.D. Cal., filed Oct. 24, 2020).

In July 2022, the class filed a motion for court approval of a preliminary settlement reached with YouTube. Under the \$4.3 million proposed settlement, the class would also receive on-site and virtual counseling services by licensed clinicians.

In September 2022, the court granted preliminary approval to the settlement and \$3.9 million in injunctive relief while conditionally certifying the class.

"There are currently no objections, nobody's excluding themselves, and everyone in the class is going to get relief, so we view that as a big plus as we wait for the judge's final approval," Williams said.

— DEVON BELCHER