

PLAINTIFF

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Presented by

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 **Greenberg Gross**



The Qualities of a Great Business Litigation Lawyer

Frequently the most difficult yet important decision that a company must make when dealing with litigation occurs within the first 30 days of a lawsuit being filed. Specifically, a company must quickly decide which lawyer or law firm it will retain to represent it in the litigation.

There is a great deal riding on making the right decision. As anyone knows who has been involved in a lawsuit as a party, attorney or juror, a stronger and more experienced trial attorney can make all the difference in the world in the success or failure of litigation. To quote the Grail Knight's message to Indiana Jones, "You must choose, but choose wisely."

The secret to success in complex business litigation is to choose an attorney and law firm that has extensive trial experience. The reality is that while there are thousands of lawyers in Orange County who call themselves "litigators," only a fraction are actually true "trial lawyers." It is these true trial lawyers that businesses should turn to when confronted with lawsuits or the need to engage in litigation.

Moreover, business should resist the temptation to retain a "specialist" in the particular subject matter involved in the litigation. Superficially, such a choice would make sense, as these specialist lawyers have practiced for decades in this one narrow area and subject matter, and thus they know the rules, regulations and laws in that field. To even sophisticated business people, such a specialist would appear to be the lawyer most qualified to handle litigation in that particular subject area. As explained below, however, choosing litigation counsel based on specialization in a subject matter area is a fallacy and red herring.

A. Choosing the Right Lawyer: A Checklist for Choosing the Trial Lawyer Who Specializes in "Winning"

Ultimately, when a business or corporation is choosing a lawyer, the ultimate criteria and "litigation specialty" they should be looking for is to choose a "winner." The following is a checklist of some of the critical factors to look for in selecting a "winning" litigator:

1. Does the lawyer or law firm have a track record of conducting actual trials in front of a jury? A litigator who has never conducted a trial cannot be an effective advocate in the pre-trial and discovery phases.
2. Does the litigator have a track record of winning cases and being successful? Look carefully at the lawyer's record in trial in handling complex cases. This requires some significant due diligence, as a lawyer's track record and history of conducting real and actual trials may be hard to find. For example, my law firm, Callahan & Blaine has won a \$934 million jury verdict (after a three month trial) in the area of complex business litigation, which is the largest jury verdict in Orange County history.
3. Does the attorney have experience and expertise in handling both plaintiff and defense cases. A true litigator is not relegated to one perspective or one point of view. A lawyer who is equally adept at both plaintiff and defense work is a very powerful asset, as that lawyer is able to understand the perspective and mindset of both sides of the litigation. Moreover, many cases have both a complaint and cross-complaint, so the attorney must be able to wear both plaintiff and defense hats.

The major benefit of hiring attorneys who handle both plaintiff and defense cases is that the law firm and its lawyers gain invaluable experience and perspective into the plaintiff's point of view when litigating a plaintiff case. The lawyer and the law firm can then put this extensive

experience of knowing the plaintiff's side to considerable benefit when acting as defense counsel. Moreover, using the adage that "the best defense is a good offense," many times a strong cross-complaint can be a highly effective defensive strategy.

It is analogous to playing both offense and defense on a football team. The knowledge and perspective that a player learns from being on the defensive side of the ball is invaluable when the player is quarterback on the offense. It is the same in law. Whether it be law and motion, depositions, discovery, or trial, it is a huge benefit for defense counsel to have extensive experience from the plaintiff's perspective.

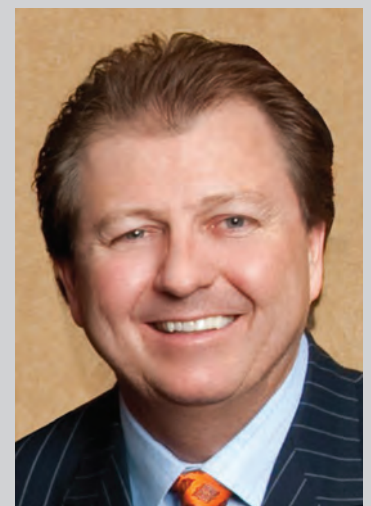
By way of example, my firm, Callahan & Blaine, represents defendants in the majority of the hundreds of complex litigation matters that we handle every year. However, Callahan & Blaine also has extensive experience from the plaintiff's side. As mentioned above, while acting as plaintiff's counsel, Callahan & Blaine, obtained the highest plaintiff's jury verdict in the history of Orange County, a \$934 million jury verdict that was procured on behalf of corporate client Beckman Coulter after a three month trial in a complex business litigation matter. Likewise, by applying its complex litigation skills in the area of municipal liability, Callahan & Blaine obtained a \$50 million settlement in a pedestrian accident that has been certified as the largest personal injury settlement in the history of the United States.

Thus, whenever Callahan & Blaine defends corporations in complex litigation matters, Callahan & Blaine is able to utilize its extensive experience from the plaintiff's perspective in many different and positive ways.

4. Is the lawyer an expert in depositions and discovery, based on experience as a trial attorney? The testimony of a witness at deposition is what the witness must say at trial. Consequently, a litigator who is not able to conduct an aggressive and effective deposition is an ineffectual lawyer. The strongest and most effective way to learn these skills is to conduct actual trial, and learn how to exam and cross-exam witnesses effectively before a judge and jury. Likewise, document production, third party subpoenas, interrogatories and other discovery devices frequently make or break a case. Again, a true litigator becomes an expert in discovery by observing and experiencing how these discovery devices are used during trial and before a jury.

In conclusion, when a business becomes embroiled in a lawsuit, the legal specialty they should look for is the lawyer who is an expert in the art and science of trials and winning.

Edward Susolik is a senior partner at Callahan & Blaine, Orange County's premier litigation firm, founded in 1984. Callahan & Blaine has 28 attorneys and specializes in complex litigation of all types, both plaintiff and defense. Mr. Susolik is in charge of Callahan Blaine's Insurance Department, and has successfully represented hundreds of corporations in disputes with insurance companies for over 31 years. Mr. Susolik can be reached at ed@callahan-law.com or (714) 241-4444. Callahan & Blaine's web site is found at www.callahan-law.com.



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Callahan & Blaine was established in 1984 by Daniel J. Callahan, who is regarded as one of the top trial attorneys in the United States.

All 28 of Callahan & Blaine's attorneys have a minimum of 10 years of litigation experience, and many have 15-30 years of seniority, with significant trial experience.

Callahan & Blaine has defended many of the company cases and obtained many remarkable verdicts and settlements, including:

- *Largest jury verdict in Orange County history – \$934 million in a complex business litigation case*
- *Stunning 12-0 defense jury verdict after a two-month trial in a major employment case brought against one of Orange County's largest companies*
- *Largest personal injury settlement in United States history – \$50 Million in a complex municipal liability case*
- *Callahan & Blaine has one of the top insurance litigation attorneys in the Western United States, who has handled over 1000 mediations for business clients*


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The Greenberg Gross Sexual Assault Litigation practice leadership team. From left: Deborah Mallgrave, Jemma Dunn, Wayne Gross, and Brian Williams.

Making a Difference For Survivors of Childhood Sexual Assault

By Wayne R. Gross and Deborah S. Mallgrave

Since opening our doors more than eight years ago, Greenberg Gross has focused on being the business litigation firm of choice for plaintiffs and defendants in bet-the-company trial work across the country. We have worked hard in those eight years to provide the very best representation to companies and executives in need of sophisticated lawyering. In late 2019, however, a change in California law caused the firm to supplement its primary focus – complex business litigation – with an entirely new practice area for plaintiffs who have been subjected to childhood sexual assault. This article explains how the law has changed and its widespread impact on the business community and beyond.

The California Child Victims Act (AB 218)

A landmark piece of legislation, California Child Victims Act (AB 218) affords survivors of childhood sexual assault an “open window,” during which they may file claims that would otherwise be time barred by the statute of limitations. This window is open until December 31, 2022. After the present window closes, survivors of childhood sexual assault will have either until age 40, or five years from the discovery of abuse to file civil lawsuits. The previous limit had been age 26, or within three years from discovery of the abuse.

With the passage of this law, the Governor and legislature have recognized the deep psychological trauma caused by the sexual assault of a child. The sad reality is that it often takes years for child-victims to recover, to discover or sufficiently understand their experience, and to develop the courage to seek the help and justice they deserve. Indeed, most survivors of childhood sexual assault do not come forward until much later in life, statistically around the age of 52.

In the past, many institutions covered up the crimes of sexual predators and escaped responsibility. AB 218 makes it easier for survivors to bring lawsuits against these institutions, which sadly include not only religious organizations, but also public and private schools, youth sports leagues, daycare facilities, foster care agencies, detention centers, and others that have a duty to protect the children in their care.

Greenberg Gross regularly confronts powerful adversaries in its complex business litigation. With its deep experience handling some of the most complex, challenging cases, as well as counting among its attorneys former federal prosecutors, the firm has the resources, platform, and experience to litigate childhood sexual assault cases at the highest level. And what we have found in entering the fray upon the passage of AB 218 is that there was a void that needed to be filled. The ravage of child sexual assault cuts across all swaths of society and strikes people from all walks of life, regardless of income, education, professional success, religious affiliation, gender or other demographic. Two Greenberg Gross cases exemplify this reality.

The Gucci Sexual Assault Case

On one end of the spectrum is what has become known as the Gucci sexual assault case. In September 2020, Greenberg Gross filed a lawsuit on behalf of Alexandra Zarini, a member of the Gucci fashion family and the granddaughter of founder Aldo Gucci, against her mother Patricia Gucci, grandmother Bruna Palombo (Aldo Gucci’s longtime partner), and step-father Joseph Ruffalo. The case, filed under AB 218, alleges that Patricia Gucci and Bruna Palombo were negligent, that Patricia Gucci was physically and emotionally abusive, and that Joseph Ruffalo repeatedly

sexually harassed, abused, and assaulted Zarini in their Beverly Hills home starting when she was just six years old and continuing through her young adulthood. Zarini further alleges that her mother enabled the assaults, and that her grandmother ordered Zarini to keep quiet and say nothing. The harrowing allegations by Zarini have generated international attention and have focused a spotlight on the fact that childhood sexual assault occurs in what seemingly is the most privileged of settings. The great-granddaughter and Gucci heiress has set up a foundation, the Alexandra Gucci Children’s Foundation (guccifoundation.org), and will use any financial recovery she receives to help other victims of sexual assault. The Foundation is currently working on policy initiatives, both in Washington and globally, as well as bringing awareness to one of the biggest societal challenges of today, the sexual assault of the world’s children.

The La Luz del Mundo RICO and Trafficking Case

On the other end of the spectrum is a tragic human trafficking case involving some of the poorest members of society. Representing Sochil Martin, in early 2020, Greenberg Gross filed a lawsuit against the global religious institution, La Luz del Mundo (LDM), under federal human trafficking and racketeering (RICO) statutes and several other federal and state laws, including AB 218. Exhibiting a presence on five continents and in nearly 60 countries, and with more than 5 million members, LDM is a global religious sect built around a doctrine of complete subservience to the “Apostle,” Naason Joaquin Garcia, and his inner circle of bishops. As alleged, the case seeks to end the longstanding cycle of exploitation, abuse and retaliation against Martin and hundreds of others at the hands of LDM and its leadership, which grooms children to be sexually assaulted by the Apostle. In Martin’s case, the abuse began at the age of nine when she was given over by her aunt and foster mother to “serve” the Apostle. She has endured a lifetime of manipulation, trafficking, forced labor, sexual assault, financial exploitation and harassment perpetrated by a sexual predator and the global institution protecting that predator. Since Martin began to break away from the group at age 30, LDM has tried to buy her silence, threatened her, and launched a smear campaign against her. Even in the midst of her own lawsuit and personal struggles, Ms. Martin fights for the rights and freedom of other survivors of sexual assault and financial exploitation.

What both of these groundbreaking cases illustrate is that the California legislature was absolutely right in passing AB 218, which has enabled Greenberg Gross, as well as other firms who have taken up the cause, to make a difference for courageous survivors of childhood sexual assault from all walks of life.



Wayne R. Gross is a highly respected trial attorney who regularly handles high-stakes business litigation for major companies and top executives in their most important matters. He is a founding partner of Greenberg Gross LLP, where he focuses on trial practice, complex civil litigation, and white-collar defense. He previously served as Chief of the U.S. Attorney’s Office in Orange County and prosecuted cases of national and international significance. Mr. Gross can be contacted at wgross@ggtriallaw.com.



Deborah S. Mallgrave is chair of the firm’s Sexual Assault and Human Trafficking Litigation practice where she concentrates her practice on complex litigation matters and advocating for survivors of sexual abuse and assault. Her extensive litigation experience includes a multitude of different business transactions, fraud schemes, unfair competition scenarios, real estate issues, intellectual property disputes, and trust litigation. Ms. Mallgrave can be contacted at dmallgrave@ggtriallaw.com.



BUSINESS LITIGATORS MAKING A DIFFERENCE FOR SURVIVORS OF CHILDHOOD SEXUAL ASSAULT

- Appellate Practice
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- Class Action Litigation
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- Financial Services Litigation
- IP and Trade Secrets
- Professional Liability Defense
- Real Estate Litigation
- Securities Litigation
- Sexual Assault and Trafficking
- White Collar Defense



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Has the Automatic Braking Feature Reduced Car Accidents?

By: Samer S. Habbas, Esq.

What is the Automatic Braking System?

Before we can understand the full impact of the automatic braking system on rear-end collisions, it is important to understand what the system is and how it works. Automatic braking is a safety technology that automatically activates the vehicle's brake system by using a sensor input when necessary.

This sensor input inspects for any hazards in the path of the vehicle. When the sensors pick up an object ahead, the system calculates if the speed of the vehicle is greater than the speed of the object it is approaching. If the system reports a significant speed variation, it predicts this is a situation where an accident is likely to occur. The system then activates the vehicle's brakes without any authorization from the driver to slow the car down before a possible collision. Systems vary from pre-charging brakes to slowing the vehicle to reduce damage. Some advanced systems even completely take over and stop the vehicle before a crash happens.

The Insurance Institute for Highway Safety (IIHS) points out that automatic braking or "brake assist" is an important part of crash avoidance technologies, including rear-end collisions (the most common type of accidents on the road). IIHS also reports that more than 99 percent of US automakers in the United States have pledged to make automatic braking a standard system in all their vehicles by 2022.

The Impact of the Automatic Braking System Feature

In 2012, one-third of all police-reported accidents involved a rear-end collision with another vehicle as to the first harmful event in the crash. The National Highway Traffic Safety Administration (NHTSA) believes that advanced crash avoidance and mitigation technologies, like the automatic braking system, could help in this area. The NHTSA's extensive research on this technology reveals that this technology is in fact capable of avoiding or reducing the severity of rear-end crashes in certain situations.

But what about the accidents caused by the automatic braking feature due to system malfunctions? A false detection may trigger the system to slam on the brakes unnecessarily, which inadvertently causes an accident. Another possible malfunction would be that hazards up ahead may go undetected, thus causing a delayed reaction from a driver who fully relied on the automatic braking system to determine the risk.

As of yet, the automatic braking system is not advanced enough for full compliance, as goes for many other vehicle safety features like adaptive cruise control, blind-spot detection, and self-driving. However, brake assist is a huge advancement in vehicle safety technologies and has proven so. According to a new study from General Motors and the University of Michigan Transportation Research Institute, automatic emergency braking with a forward collision alert has reduced rear-end striking crashes by 46 percent.

This safety feature is another barrier that helps protect others on the road from distracted drivers. According to the NHTSA, 87 percent of all rear-end collisions involve some form of distracted driving. Managing Partner, Samer Habbas of the Law Offices of Samer Habbas has represented countless victims among that statistic who have been injured at the hands of a distracted driver.

Case Highlight: Distracted Driving Accident in Santa Ana, Orange County

A backseat passenger in a rideshare vehicle was traveling northbound on the 5 freeway. At around 3:30 am, the vehicle carrying the claimant was rear-ended by a driver who fell asleep behind the wheel while traveling at an accelerated speed. The claimant was diagnosed with a herniated lumbar disc, mild traumatic brain injury (MTBI), and an acute meniscus tear of the right knee. The claimant had been examined and treated by multiple specialists, and it was clear that he will continue to do so past the length of this legal claim. **Managing Partner, Samer Habbas** was determined to recover the damages his client sustained, as well as reparations for lasting trauma. With medical records that present correlating damages, in addition to the defendant's recorded confession in the police report, liability was concrete. Habbas swiftly tendered the defendant's full policy limits of \$15,000 then pursued an Underinsured Motorist (UIM) claim with the client's own carrier. The first offer presented by the UIM carrier was \$450,000. Habbas knew that his client's case was worth much more. He got the carrier to raise its offer three times until a final offer was accepted at \$850,000—**securing a global settlement of \$865,000.**

Before You Drive, Learn About Your Vehicle's Safety Features

All good things do come with a warning and caveat – and the automatic braking system in vehicles is no exception. It is important for motorists to be aware of their vehicle's full capabilities. Some automatic braking systems do not bring the vehicle to a full and complete stop. As such, it is crucial to know the full extent of your vehicle's features and not to simply assume that this technology will automatically prevent an accident.

Contact an Experienced Orange County Rear-End Accident Attorney

The personal injury lawyers at the Law Offices of Samer Habbas & Associates have extensive experience in handling car accident claims. For more information or to schedule a complimentary consultation with an attorney, please call 949-288-2416.

Managing Partner, Samer Habbas of the Law Offices of Samer Habbas & Associates has established his career in helping victims obtain justice from the responsible parties. As a personal injury law firm, Habbas and his fellow attorneys handle a variety of claims: auto accidents, dog bites, elder abuse claims, sexual assault cases, work-related injuries, slip and falls, and more. With multiple offices located in Irvine, Los Angeles, El Segundo, San Diego and Riverside, Samer Habbas & Associates have successfully represented victims across Southern California. For more information or to schedule a free consultation, contact Samer Habbas at (949) 288-2416 or contact@habbaspilaw.com.



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