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PRACTICE GUIDE · BUSINESS TORTS

Practice Pointers

Grand Park Law Group · 2026



1. **Plead fraud with particularity.** *Engalla* requires "how, when, where, to whom, and by what means." Generic allegations will be sustained on demurrer. Identify each speaker, each statement, the medium, and the approximate date.
2. **For promissory fraud, marshal contemporaneous-intent evidence.** Internal emails, financial records showing inability to perform, and pattern evidence of similar broken promises to others are the typical building blocks under *Lazar*.
3. **Pick your tortious-interference theory carefully.** Existing contract → use *Quelimane*. Prospective relationship → use *Della Penna/Korea Supply* and identify a specific independently wrongful act (statute, regulation, common-law tort).
4. **Mind CUTSA preemption when pleading trade-secret cases.** Avoid duplicative conversion, breach-of-confidence, IIPEA, and UCL counts based on the same misappropriation facts. *K.C. Multimedia* will result in those counts being stricken. Plead independent contract and fiduciary-duty theories where viable.
5. **Forget inevitable disclosure.** *Whyte* and *AMN* foreclose any backdoor non-compete strategy. Build threatened-misappropriation evidence the old-fashioned way: forensic-imaging of devices, exfiltration logs, copying of customer lists, suspect downloads in the days before resignation.
6. **Use UCL strategically, not as a damages claim.** *Korea Supply* and *Kwikset* limit relief to restitution and injunction. UCL is best deployed (a) as a vehicle for injunctive relief, (b) to extend statutes of limitations to four years, or (c) to capture conduct that escapes traditional tort

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elements.

7. **Trace the money for conversion.** *Hartford* requires identifiable funds. In commercial-fraud cases involving the diversion of money, work with forensic accountants early to establish the chain.
8. **Bank-defendant cases require Casey-level pleading.** Allege actual knowledge of the specific primary breach and substantial assistance, with facts — not labels.
9. **Defeat economic-loss-rule defenses with Robinson Helicopter.** Identify affirmative intentional misrepresentations and damages independent of contract losses (e.g., regulatory exposure, third-party liability, reputational injury supported by evidence).
10. **Preserve punitive damages.** Civil Code section 3294 requires clear-and-convincing evidence of malice, oppression, or fraud. Plead the underlying facts, not just the conclusory standard, and request financial-condition discovery early.
11. **Consider DTSA for federal jurisdiction and ex parte seizure.** When trade-secret theft involves digital exfiltration and risk of dissemination, the 18 U.S.C. § 1836(b)(2) seizure mechanism is a powerful early tool. Comply with the section 1833(b) whistleblower-immunity notice requirement in employment agreements to preserve fee and exemplary remedies.
12. **Document the duty to disclose.** *LiMandri*'s four categories are the demurrer battleground for concealment claims. Match facts to categories explicitly in the complaint.

Practice Business Torts

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