

Daily Journal

OCTOBER 9, 2024



TOP TRADE SECRETS LAWYERS 2024

Randy Luskey



**Paul, Weiss, Rifkind,
Wharton & Garrison LLP**
SAN FRANCISCO

Randy Luskey is a highly regarded trade secrets counsel for major corporations and their executives, in the Bay Area and nationwide.

"Among other things, I enjoy the forensic element in trade secrets cases, such as analyzing tech devices for any evidence of misappropriation," Luskey said. "There's also a strong human element, especially when you're defending someone accused of stealing confidential company information."

Earlier in his career, Luskey served as an assistant U.S. attorney in the Northern District of California and handled both civil and criminal trade secrets cases.

Currently, Luskey is managing several sensitive and confidential investigations and potential litigation matters for Bay Area technology clients involving claims of trade secrets misappropriation by departing executives. Luskey's expertise in forensic analysis of cell phones, laptops and other devices has further solidified their reputation as a subject matter expert in this area.

"I am also defending an executive at a financial services firm in a trade secrets investigation by the SEC and a U.S. Attorney's Office," Luskey said. "This is also at the early stages."

Luskey also won the stay of a highly contentious wrongful termination suit over trade secrets misappropriation on behalf of global venture capital firm Mithril Capital. *O'Neill v. Mithril Capital Management*, CGC-23-606566 (S.F. Super. Ct., filed May 15, 2023).

"Mithril terminated the former employee for cause after he exfiltrated the company's confidential and proprietary information and refused to return the company's data and devices," Luskey said. "Under the LLC agreement that governed his termi-

nation for cause, the plaintiff lost his carried interest in an affiliated entity. He then sued Mithril, seeking damages for his forfeited carried interest and alleging that an at-will employment agreement was breached, even though termination for cause and carried interest are subject to the LLC agreement."

The case is ongoing in Delaware and California state courts.

Luskey said one of the proudest moments of his career came when the law firm won the acquittal of a former Fitbit executive in a criminal trade secrets prosecution.

He said when representing an employee accused of stealing confidential company information or a company accused of misappropriating a competitor's trade secrets, one is often faced with some evidence of possession of the trade secrets in question.

"In the Fitbit case we successfully demonstrated to the jury that the proprietary information our client was accused of having stolen when she moved to Fitbit had actually been saved not for nefarious purposes but as part of routine backups of her work at her previous company, and that neither she nor anyone else used it when she moved to Fitbit," Luskey said.