

## Rob Fuller

Partner

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With more than a decade's experience as a hospital administrator, Rob Fuller brings tremendous insight and knowledge drawn from this hands-on experience and leadership to his healthcare legal practice. Rob utilizes his next-level healthcare management skillset to advise on transactional, operational and regulatory matters in the healthcare industry. His transactional experience includes counseling on mergers, acquisitions, financing, securities, formation, governance, purchase, sale and licensing of businesses. Rob's securities practice goes beyond the basics of private placements, early round capital raise for startups, bond issuance, and 3(b) registration compliance, as he has developed various cash flow-based derivatives and other specialty securities designed to meet diversified investor needs. His finance practice is equally sophisticated, with experience in all forms of secured and unsecured financing, including diverse swap instruments hedging interest rates and commodity pricing.

### **Adept Operational and Turnaround Guidance for Healthcare Systems**

With business acumen and first-hand knowledge of healthcare systems, Rob provides adept guidance on operations, corporate reorganizations, financings, lending, credit facility and banking for healthcare companies. His experience includes advising hospitals on turnaround strategies, running a Medicare Advantage program, and serving as the chief restructuring officer. Rob recently orchestrated a dramatic hospital turnaround, turning down a \$20 million offer during chapter 11 proceedings, and thereafter restructuring hospital operations and leading the hospital's exit from bankruptcy as still an independent facility, and selling the hospital eighteen months later at six times the offer.

Rob has recently represented a number of clients in the turnaround space who acquire assets or enter into joint venture arrangements with historical operators. As the historical operators seek to monetize underperforming assets, Rob identifies creative structures to limit risk to the new operators of the assets while accessing above-market returns for their investment and expertise. These transactions are heavily dependent on multi-tier risk-on financing vehicles, and a detailed knowledge of the downside protections and bankruptcy law.

### **A Thought Leader on Healthcare Regulatory Issues**

Anticipating the regulatory challenges facing the healthcare industry, Rob recently co-authored "[From ObamaCare to Trump](#)." This thought-provoking book offers a comprehensive survey of healthcare policy leading up to the Affordable Care Act, examines its strengths and weaknesses, and portends the direction the Trump administration and the GOP will take healthcare policy. Rob's regulatory work includes strategic consulting for hospitals, hospital systems, medical device manufacturers, medical groups and government entities. He also has significant lobbying and governmental representation experience.

### **Revenue Cycle Expertise/Creative Securities and Financing/Worker's Compensation Financing**

One of the greatest challenges for companies in the healthcare industry is the length of time it takes to get a claim paid. For instance, the lags in California's worker's compensation program typically run two years or more. Anticipating that the advent of Labor Code 4903.8 would bring factoring to a halt in 2017, Rob designed a lending program with multiple exit strategies which do not rely on accounts receivables as collateral. By creating new cash flow models and the ability to create cash flow rights after



accounts had been monetized, Rob's design ensured that Nelson Hardiman clients were secured in over \$100 million in facilities. The same kind of foresight has allowed him to create bond-equivalent securities for hedge fund investors seeking counter-cyclical healthcare related investments.

### **Extensive General Business and Trial Experience**

Beyond core healthcare issues, Rob also advises clients on general business matters including antitrust, corporate governance, nonprofit regulation, general commercial and real estate law. In addition, he has an extensive trial and appellate background including criminal defense. Rob is admitted in California and New York, and is a member of the bars of numerous federal district and circuit courts, as well as the United States Supreme Court.

Dedicated to advancing healthcare management excellence, Rob is a Fellow of the American College of Healthcare Executives, an international professional society of healthcare executives who lead hospitals, healthcare systems, and other healthcare organizations.

### **Accolades**

Rob was [selected](#) to the 2020 Southern California Super Lawyers list for the third consecutive year.

### **Life Outside the Firm**

Outside of his stellar healthcare practice, Rob can be found chasing a golf ball during the day and indulging in astrophotography at night as an active member of an astronomy club. Rumors are that he is a closet math geek, and enjoys analyzing data and keeping up with the universe. He also spends his free time off-roading in the desert and raising rescued dogs.

## **Practice Areas**

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- [Government Investigations](#)
- [Litigation](#)
- [Regulatory Compliance](#)
- [Transactions](#)

## Credentials

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### Education

Fordham Law School, J.D. (*Articles Editor of the Fordham International Law Review*)

Dartmouth College, A.B. (*with highest distinction in a Government Honors major*)

### Admissions

State Bar of California

State Bar of New York

US Supreme Court Bar

US Court of Appeals, First, Second, Third, Fifth, Sixth, Seventh, Ninth, and Tenth

### Affiliations

Adaptive Healthcare Fund (Investment Committee Co-Chair)

American College of Healthcare Executives (Fellow)

Hospital Association of Southern California

## Experience

Rob Fuller has over three decades of transactional experience in New York and California handling finance, mergers and acquisitions, antitrust advisory, regulatory and corporate governance matters for healthcare organizations and corporate entities, including:

### Transactional

- **Acute Care Hospital Acquisition and Management** Counselled and documented management company and acquisition of acute care hospitals both in and out of bankruptcy courts, involving workouts and operational turnarounds.
- **Ambulatory Surgery Centers** Documented the financing and/or sale of over 25 ambulatory surgery centers.
- **Boards of Directors** Advised board of directors on fiduciary obligations and governance.
- **Bond Counsel** Served as entity's bond counsel for issuance of municipal-backed bonds for non-profit enterprise.
- **Chapter 11 Proceedings** Served as Chief Restructuring Officer for 199-bed general acute care hospital's Chapter 11 proceeding.
- **Entity Formation** Formed new entity for merger and subsequent sale of a group of dermatopathology laboratories with financing of over \$15 million.
- **Entity Formation** Formed over five hundred entities, corporations of all types, LLCs, PLLCs, LPs, trusts, and non-profits, together with governance documents to support regular business operations, financing, and mergers.
- **Factoring** Counselled and documented various factoring and ABL lines for medical groups, hedge funds, and lenders.
- **Family Office Diversification** Set up investment trust of over \$100 million seeking diversification of family office assets into new industries.
- **Financings** Closed over 50 financings, collateralized, secured, unsecured, including bank rate and oil price hedging obligations, and credit swaps of various kinds, of over \$1 million dollars to over \$25 billion dollars.
- **Healthcare Management Companies** Set up over fifty management companies to assist with management and financing for health care facilities including hospitals, medical practices, MediSpas, 1206 Foundations, and related entities.
- **HUD Financings** Documented financing for \$25 million bridge to HUD lending from private lender to health care facility; completed over a dozen HUD 242 and related applications for financing clients.
- **IPA Formation, Contracts and Operations** Formed several new IPAs, merged physician practices, negotiated new contracts with Medicare Advantage plans, and counseled on business and regulatory aspects of IPA operations.
- **Licensing and Product Agreements** Documented significant domestic and international IP licensing, manufacturing, marketing, and distribution agreements for pharmaceuticals, biologics, medical devices, and related products.
- **Merger Cases** Advised on Clayton Act and Sherman Act merger cases.
- **Joint Venture** Represented client in acquiring 50 skilled nursing facilities (SNFs) valued at more than \$100 million.
- **Expansion Funding** Represented IPA and related businesses in multitier capital raise for geographic and enterprise expansion, utilizing equity (\$8 million), mezzanine borrowing (\$20 million), and primary facility borrowing (\$22 million).
- **Multi Facility Acquisition** Assisted medical services company in acquiring three new facilities through real estate investment platform exercising options on over \$20 million worth of property.
- **A and B Rounds – Venture Capital** Represented client with \$200 million valuation in raising \$50 million new funding through convertible debentures and equity positions.

7 cases in US District Court, made HSR and related filings, handled extensive Second Requests, and CIDs.

- **Pharmacy and Laboratory Acquisitions** Counselled on over two dozen pharmacy acquisitions and laboratory acquisitions, handling CHOWs and regulatory approvals; counseled on 340B program requirements for structuring cash flows in certain pharmacy acquisitions.
- **Private Placements for Cannabis Markets** Recently documented over 40 private placement memoranda, creating complex investment structure into high risk new markets involving cannabis business.
- **Real Estate and Land Use** Counsel on commercial real estate transactions, zoning regulations, CUP applications, and related property use and development issues, including use of residential properties for health care services such as rehabilitation facilities, assessing constitutional and statutory issues under State and Federal law, including equal protection clause, Fair Housing Act, and Americans with Disabilities Act. Handle appearances before local P&Z commissions, city councils, and appeals.

- **Securities Finance** Created new security worth \$100 million as a bond-equivalent for hedge fund seeking stable but higher returns for clients, based on cash flows captured from certain health care organizations.
- **Securities Transactions** Structured securities and complex transactions requiring new issuances to accomplish entity transfer and partial transfers.
- **Skilled Nursing Facilities** Counseled and documented sale of a chain of skilled nursing facilities.
- **Strategy** Counseled and documented European intellectual property acquisition, factory operations and project management, and FDA and CE approval of complex ophthalmologic equipment.
- **Regulatory Compliance.** Counsel on all regulatory aspects of health care, including for hospitals, skilled nursing, assisted living, medical groups, medical staffs, telemedicine, pharmaceutical, laboratory, ASC, device manufacturing, rehabilitation facilities, sober living, and related clients.
- **Taxation** Structured tax efficient vehicles to support mergers and other combinations.

## Litigation

Rob has tried over thirty cases, jury and non-jury, and handled over a dozen appellate matters (member of the Bar of the US Supreme Court and most Circuit Courts of Appeal), including:

- **Trade Secrets** *Chronic Practor Caregivers v. Washington* (2015, Supr. Court for Los Angeles County, unreported) Obtained preliminary injunction for corporate identity theft issues against individuals misappropriating name and trade dress of client.
- **Antitrust** *Eubanks v. Getty Oil Company*, 896 F.2d 960 (5th Cir 1990) Complex collateral estoppel argument prevailed in short-circuiting plaintiff's antitrust case, based on Hatter's Pond gas field unitization proceedings in another State; Federal Comity Statute interpretation; affected over \$4 billion in royalty payments.
- **Real Estate Dispute** *Damesghi v. Texaco Refining and Marketing Inc.*, 3 Cal.App.4th (4th Cal. Ct. App. 1992) State franchise act pre-emption, real estate transfer dispute. **Jurisdiction** *Pride v. Exxon and Texaco*, 911 F.2d 251 (9th Cir 1990) Federal jurisdiction over state law fraud claim.
- **Clayton Act Sec. 7** *Washington v. Texaco Refining and Marketing Inc.*, 1991-1 Trade Cas. (CCH) Para. 69345 (W.D. Wash 1991) Clayton Act Sec. 7 case brought by State of Washington to stop acquisition of 55 service stations; settled following hearing by consent decree and Texaco agreeing to divest 5 stations and pay attorney generals trial costs of \$55,000.
- **Land Value Dispute** *Getty v. County of Los Angeles* (2001, Supr. Court for Los Angeles, County, unreported jury trial) Land value dispute settled on appeal following jury trial to establish the takings value of oil producing land sought by County for parkland.

## Alternative Dispute Resolution

Rob has handled significant alternate dispute and arbitration proceedings, including:

- **Environmental** *Texaco v. Coca Cola Enterprises (1995)* Favorable arbitration result in proceedings before retired California Supreme Court justice for environmental damage caused to Texaco's Inglewood, California property, traceable to predecessor entity of Dr. Pepper Bottling Company of Southern California of which CCE had purchased the common stock.
- **Government Dispute** *In re Lake Desmet Property – Texaco v. U.S Dept of the Interior*, (1988) Convinced US Government to make substantial offset payments on forestalled development of coal producing properties under inverse condemnation theory.
- **UN Compensation Commission** *In re Texaco's Neutral Zone Damages from Gulf War (1991)* Assisted in preparing "F" round proceedings before UN Compensation Commission in seeking compensation for damages sustained by Texaco at its neutral zone oil and gas producing and refining operations based in Mina Saud, Kuwait; multi- billion dollar result.

## Regulatory/Compliance

- **Hospital Bankruptcy & Sale** Lead regulatory counsel to a large health system in its Chapter 11 bankruptcy case, the largest hospital bankruptcy in U.S. history. The matter has involved corporate and regulatory support for the system's day-to-day operations as well as extensive regulatory work on the sale of the system's six hospitals, including counsel regarding California attorney general conditions and approval process.