

# ADVOCATES FOR JUSTICE

San Francisco Bay Area • Los Angeles Area • New York

## \$102 MILLION SETTLEMENT IN WHISTLEBLOWER CASE AGAINST BRITISH PETROLEUM FOR OVERCHARGING THE STATE



CPM announced that an agreement was reached in a whistleblower case against BP (formerly British Petroleum) that accuses the oil company of massive overcharging of California cities, counties, universities, and government agencies on purchases of natural gas over the course of the past decade. The alleged fraud involved the sale of financial derivative products. Under the settlement, BP will pay \$102 million. It is the largest whistleblower settlement in California history involving an oil company. The case settled as a six week jury trial was set to begin in mid-January in San Francisco. The lawsuit against BP was filed in July 2012 by a former-employee of BP under the California False Claims Act. The case was handled by **Niall McCarthy**, **Justin Berger** and **Mallory Barr** and false claims team.

## California Supreme Court Denies Paint Companies' Request for Hearing In \$1 Billion Lead Paint Poisoning Verdict



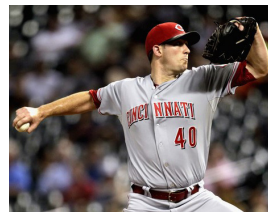
The California Supreme Court denied the petitions for review by Sherwin-Williams Company, NL Industries, Inc. and ConAgra Grocery Products Company LLC, in the lead paint case that allegedly caused lead poisoning in young children in several cities and counties in California. In November 2017, the California Court of Appeal affirmed a trial court's trial decision that defendants are liable for public nuisance because they sold lead paint for use in the inside of homes with knowledge that it would create a risk of harm to children, in homes built pre-1950. The Trial Court found damages of **over one billion dollars**. **Joe Cotchett** of CPM was one of the lead **Co-Counsel** trial lawyers.

## NISHIMURA NAMED CHAIRPERSON Commission on Judicial Performance



**Nanci Nishimura**, a partner at CPM, handling complex litigation has been named new Chair of the **Commission on Judicial Performance**. The mission of the CJP as an independent state agency is to protect the public, enforce rigorous standards of judicial conduct and maintain public confidence in the integrity and independence of the judicial system under the California Constitution. Nishimura was appointed to the 11 member commission by Gov. Jerry Brown.

## Jury Awards \$2.3 Million to Former MLB Pitcher Who Was Attacked In Front of His Home



In March, a San Mateo County jury returned a verdict for former MLB pitcher Greg Reynolds of \$2.3 million. Reynolds played at Stanford before playing for the Rockies, Rangers, and Reds organizations for 10 years. Reynolds claimed that his career was cut short after he was attacked in front of his Half Moon Bay home by a man on LSD resulting in a hand injury costing him the ability to control and move the baseball. The \$2.3 million verdict was reported nationwide, including in *Sports Illustrated*, *New York Post*, *Denver Post*, *San Jose Mercury*, *San Francisco Chronicle* and *Half Moon Bay Review* (See insert). The case was tried by **Niall McCarthy**, **Elizabeth Tran Castillo** and **Emanuel Townsend**.

## City of Oroville and California Citizens Sue DWR, Alleging Oroville Dam Failure was Caused by Decades of Mismanagement



Farmers, businesses, and property owners have filed a lawsuit against the Department of Water Resources ("DWR"), alleging that the Oroville Dam's failure in February 2017 was caused by decades of mismanagement. The dam's failure triggered an evacuation and caused hundreds of millions of dollars of damage to farms, businesses, and private property. The lawsuit seeks to recover damages for many of those who were injured. The case is being handled by CPM's **Joe Cotchett**, **Niall McCarthy**, **Adam Shapiro**, and co-counsel **James Nolan**, **David Jones**, and **Michael Harriman** from law firms in Northern California.

## In Memoriam

**Hon. Stephen R. Reinhardt**  
**Hon. Harry Pregerson**

*Our judiciary lost two giants of the U.S. 9th Circuit Court of Appeals that fought for humanitarian and constitutional rights.*



Year of the Dog  
2018

大展鴻圖

客似雲來

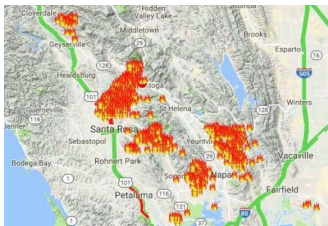


CPM AIR



## MAJOR RECENT UPDATES AND FILINGS

### CPM Files Negligence Lawsuit Against PG&E for Practices "Causing or Contributing to" North Bay Fires

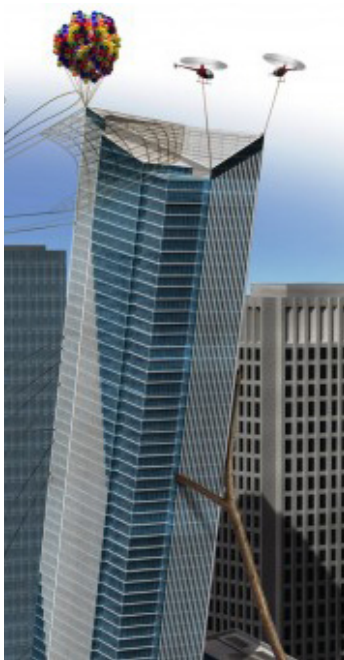


Last Fall, **CPM** filed a victims' negligence suit against PG&E for "causing or contributing to" the North Bay fires that claimed 43 lives, displaced an estimated 100,000 people, burned or damaged 200,000 acres, and destroyed or damaged about 8,000 structures. The lawsuit asserts that PG&E had an inadequate vegetation management program and had procedures in place to allow reclosers (a circuit breaking type device) to reset several times after being tripped in order to restore electric service. Other utilities in Southern California do not allow this because of the potential for setting or exacerbating wildfires. The case is being handled by **Frank Pitre, Alison Cordova, Abigail Blodgett** and team.

#### **Frank Pitre Named Co-Lead Counsel in North Bay Fire Cases - Sonoma**

**Frank Pitre** has been named one of three lawyers to lead the individual cases on behalf of individuals and businesses in the fire of October 2017 that destroyed over 8,000 structures.

### San Francisco Millennium Tower Sinking and Tilting - Litigation



**CPM** continues its litigation on behalf of over 100 homeowners in San Francisco's Millennium Tower, alleging that its developers worked in concert to hide knowledge that the building was sinking and tilting from prospective purchasers. The suit also alleges that construction of the neighboring Transbay Terminal contributed to the building's sinking and tilting. **CPM** is pursuing claims for fraud against the building's developer, and inverse condemnation and nuisance claims against the public agency who constructed the Transbay Terminal. While engineers continue to search for a solution, **CPM's** suit focuses on securing relief for the Millennium Tower's homeowners, who collectively invested hundreds of millions of dollars in purchasing units in the Millennium Tower, only to now find those units virtually unmarketable and prospects for stabilizing the Tower uncertain at best. The case is being handled by **Frank Pitre, Niall McCarthy, Eric Buescher** and **Julie Fieber**.

### Shareholder Lawsuit Filed Against Facebook Directors Following Massive Data Breach Impacting 50 Million Facebook Users



In March, **CPM** filed a lawsuit on behalf of a Facebook shareholder in the Northern District of California Federal Court on behalf of the Company, against several Facebook officers and directors, following the Company's recent admission that private data from 50 million Facebook users was improperly shared with third parties. The complaint alleges that Facebook's senior management breached their fiduciary duties by failing to prevent the initial misappropriation and, after learning of it in 2015, failing to inform affected Facebook users or the public markets. Facebook lost \$50 billion in market capitalization since the leak was disclosed. The Federal Trade Commission has also reportedly launched an inquiry into Facebook's conduct and whether it violated the terms of a 2011 consent decree requiring Facebook to notify users before sharing their data with third parties. **Mark Molumphy** said: "Facebook's apology doesn't do much for the millions of Americans impacted by this conduct. It also doesn't explain why Facebook executives waited three years to inform their loyal users and shareholders of the massive breach, especially on the heels of the FTC consent decree in 2011. This action seeks accountability from those entrusted to safeguard our personal information and who seem to pay only lip service to the privacy concerns of their users." The case is led by **Joe Cotchett, Mark Molumphy, Gina Stassi** and **Stephanie Biehl**.

### Restoring Public Access to Martins Beach and California Coast



Pete McCloskey at Martin's Beach

In the legal battle to restore public access to Martins Beach, the owner has asked the US Supreme Court intervene and grant his Petition challenging the decades of work by California's coastal communities to ensure public access to the coast. California's courts soundly rejected the owner's claims and upheld the Coastal Act's guarantees of access. **Surfrider Foundation** and **CPM** will continue to fight to restore decades of prior access to Martins Beach before the owner's \$32.5 million purchase and closure of Martins Beach. The case is being led by **Joe Cotchett, Pete McCloskey** and **Eric Buescher**. The case will impact public access all over the country and is being watched closely by environmental groups.



# FALSE CLAIMS & CONSUMER FRAUD UPDATES

## CPM Represents Victims of Elder Abuse



CPM represents many seniors who are the victims of elder abuse. In one case, Evelyn Peters, an 87 year-old Daly City resident is alleged to have fallen victim to a scam perpetrated by a local fire-repair contractor, Montgomery Sansome, LP and Leonard A. Nordeman. CPM alleges that Defendants fraudulently induced Peters to retain them to repair fire damage to her home, falsely promising that they would complete all phases of the project in a workman-like manner and within a reasonable time. Defendants ultimately overcharged Peters for the work which was included in the contract, double-billed and over-billed Peters and exhausted Peters' insurance policy limit. After overcharging Peters and failing to make the agreed upon repairs, Montgomery then sued her for breach of contract and unjust enrichment among other things. The San Mateo District Attorney has also brought suit against Montgomery and Nordeman under the California Unfair Competition Law to enjoin their unlawful practices. The case is being handled by **Justin Berger, Tamarah Prevost, Adam Shapiro** and team.

## First In The Nation Class Action Being Prosecuted Against Samsung For Exploding Samsung Phones



CPM (and co-counsel Stonebarger Law) continue to prosecute a first of its kind class action on behalf of California consumers who purchased millions of Samsung S6, S7 and Note 5 phones. These phones are not part of Samsung's widely reported recall, which only covers the Galaxy Note 7. The complaint alleges a several year history of incidents where consumers have complained that their Samsung Galaxy series phones have overheated, exploded or caught fire. The suit alleges that the safety risk of overheating phones was known by officials at Samsung well before their recent recall of the Note 7 Series, and raises serious concerns that earlier models suffer from similar design and manufacturing defects. CPM and Stonebarger have been appointed interim co-lead counsel by the U.S. District Court for the Northern District of California. The case is being handled by **Niall McCarthy, Anne Marie Murphy, Eric Buescher** and team.

## Spinal Surgery Conspiracy Action Set for July 9th Trial in Los Angeles



CPM's whistleblower case against a massive spinal surgery scheme is set for trial on July 9, 2018, in Los Angeles County Superior Court. The case alleges that four hospitals in Southern California conspired with a vast web of surgeons, spinal hardware distributors, and others to perform unnecessary spinal fusion surgeries procured through unlawful kickbacks, and utilizing counterfeit spinal hardware. Two of the Defendants in the case, Michael Drobot and Paul Randall, have already been sentenced to federal prison for their roles in the scheme. The case is handled by **Justin Berger, Robert Hutchinson, Joel Gordon** and team.

## The Fight for Dreamers



CPM represents the City of San Jose on a pro bono basis in a case seeking to stop the Trump Administration from rescinding DACA, which shields hundreds of thousands of young immigrants from deportation. In January, the District Court granted a nationwide preliminary injunction preventing the expiration of DACA. On February 26, the U.S. Supreme Court declined to review that decision before it is reviewed by the U.S. Court of Appeals for the Ninth Circuit, where it is currently on appeal. The case is being handled by **Joe Cotchett, Justin Berger, Brian Danitz** and **Tamarah Prevost**. Every week that DACA remains in place is a victory, not only for hundreds of thousands of Dreamers, but for our cities, communities, schools, and congregations.

## Eric Buescher Argues Whistleblower Case Before Virginia's Supreme Court



In February, **Eric Buescher** argued before the seven justices on Virginia's Supreme Court in a false claims lawsuit. The False Claims Act requires the government to pay private citizens a percentage of the amount recovered in false claims suits filed on the government's behalf. CPM and its client, Hunter Laboratories, recovered \$1,250,000 on behalf of Virginia, but the way Virginia calculated the percentage it owed Hunter Labs resulted in an underpayment of a large sum of money. Virginia's Supreme Court will be the first in the nation to address this issue, and CPM is working to ensure people who report fraud and recover funds for the government are properly and fairly rewarded for their acts. A decision is expected later this year.

## MASS LOSSES UPDATES

### Family of S.F. Native Shot With Stolen SFPD Gun Files Claim Against San Francisco Police Department And SFPD Officer Marvin Cabuntala



The mother of Abel Esquivel will take the first step toward pursuing justice for the death of her beloved son, a twenty-three-year-old San Francisco-native who was senselessly shot and killed in the Mission District on August 15, 2017, with San Francisco Police Officer Marvin Cabuntala's .38 caliber Smith and Wesson revolver. The revolver was stolen only days before after being left loaded and unlocked in an unattended vehicle in San Francisco. The claim alleges that SFPD, as well as the officer, failed to follow state and local laws pertaining to securing and storing a firearm in an unattended vehicle. The case is being handled by CPM's **Alison Cordova** and team.

### Case Filed for Murdered Father of Two in Hillsborough on S.F. Peninsula



CPM represents the mother and children of Keith Green, a young man who authorities allege was murdered by his ex-girlfriend and the mother of his children, Tiffany Li. It is also alleged that Tiffany Li conspired with her current love interest, as well as Olivier Adella, to kidnap and kill Keith. Keith left behind two infant daughters and his mother, who seek justice for the loss of love and companionship of their father and son. The case is handled by **Frank Pitre, Alison Cordova** and team.

### Richmond-Chevron Refinery Explosion Set for Trial



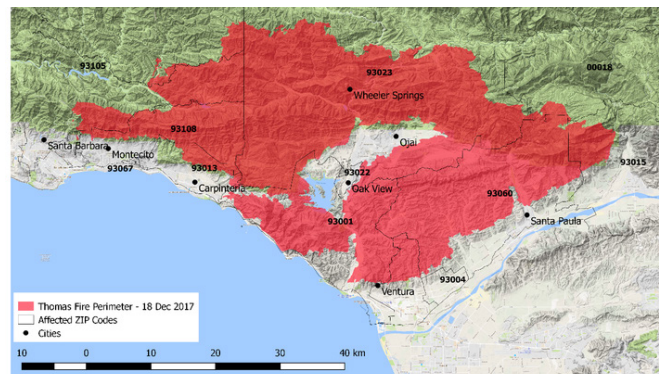
CPM represents the City of Richmond against Chevron in connection with the massive refinery explosion in August 2012 that resulted in a catastrophic fire, caused a shelter-in-place lasting hours, sent thousands of people to the hospital, and shutdown operations at the refinery for several months. After five years of hard fought litigation, the parties are on the verge of trial, which is scheduled to commence in April. The case is handled by **Frank Pitre, Alison Cordova, Julie Fieber, John Thyken** and team.

### CPM Seeks Justice for Victims of Nation's Worst Natural Gas Leak in Porter Ranch, California



CPM and Kabateck, Brown & Kelner represent over 35,000 clients from the Porter Ranch area of Southern California who are suffering various ill health effects as well as potentially severe loss of home values as a result of one of the most massive man-made environmental disasters. Southern California Gas Company acknowledged the leak in late October of 2015 although evidence exists that the company knew the storage well was leaking years before. CPM has been assisting clients to gather documentation regarding their medical treatment and other elements of the damage caused by the blowout. Clients have also been completing comprehensive questionnaires which will, in most cases, negate the need for oral deposition testimony. The Court has requested a trial plan be submitted by the plaintiffs' steering committee by the end of March 2018 and we anticipate that a trial schedule will be established soon thereafter. These cases are being handled by **Frank Pitre, Robert Hutchinson, Julie Fieber, Joel Gordon, Neda Lotfi** and team, with co-counsel.

### Ranchers File Suit Against Southern California Edison for Damages from Fire Ventura - Santa Barbara Counties



In December 2017, the Thomas Fire was a massive wildfire that affected Ventura and Santa Barbara Counties and claimed lives, burned 281,893 acres, destroyed or damaged more than 1,300 structures, displaced over 100,000 residents and severely damaged the watersheds. The complaint filed by CPM alleges Southern California Edison put profits before public safety and knew about the significant risk of wildfires stemming from its unsafe equipment, aging infrastructure and ineffective vegetation management system for many years. It is estimated that more than \$170 million in damages has been done to the County's agricultural industry that will greatly affect ranchers and growers. These cases are being handled by **Frank Pitre, Alison Cordova, Abigail Blodgett** along with co-counsel.



# HONORS FOR CPM

## CPM is Pleased to Announce Alison Cordova and Brian Danitz as New Partners



Alison Cordova

Graduate of Columbia University with a Bachelor of Arts in Political Science and received her Juris Doctor from the University of California, Hastings College of the Law in 2012. At Hastings, she was recognized for public service and scholastic achievement, including graduating cum laude and receiving highest honors for outstanding achievement in pro bono work. Alison began her legal career as a consumer attorney, fighting for consumer rights against major lending institutions and debt collection agencies. She has held executive and board member positions at both the San Francisco Barristers Bar Association and San Mateo County Trial Lawyers Association.



Brian Danitz

Graduate of New York University with a Bachelor of Fine Arts and Masters in Interactive Telecommunications and received his Juris Doctor cum laude from Fordham University School of Law in 2006. Brian started his legal career at a large Silicon Valley law firm representing clients in intellectual property, commercial and securities litigation, and government enforcement matters. Prior to becoming a lawyer, Brian was a documentary filmmaker and cinematographer. Brian filmed the Oscar-winning *Bowling for Columbine*, Oscar-nominated *Sound and Fury*, and Emmy Award winning *TV Nation*, and directed *Ecological Design: Inventing the Future, Objects and Memory*, and *N is for Nuclear*, among other films.

## McCandless Named Co-Chair of the Minority Bar Coalition



**Phyrre McCandless** is a Co-Chair of the Minority Bar Coalition. The Minority Bar Coalition (MBC) is a network of over 40 diverse bar associations dedicated to working in a unified manner to advance the cause of diversity in the legal profession. MBC does this by sharing best practices and resources in bar association programming and advocacy, finding issues of common cause, and building shared platforms.

MINORITY BAR  
COALITION

## McCarthy Sworn Into the International Academy of Trial Lawyers

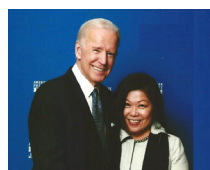


**Niall McCarthy** was inducted into the International Academy of Trial Lawyers. The Academy is limited to 500 fellows from around the world who have achieved excellence in trial practice. Pictured with J. Mark White of Alabama and sponsor.

## CPM Proudly Supports the Asian American Bar Association



**Elizabeth Tran Castillo** co-chaired the Asian American Bar Association of the Greater Bay Area (AABA) 42nd Annual Gala at the Bently Reserve in S.F. in March. The gala brought together 1,000 attorneys, judges, elected officials, law students, and others in the legal community to celebrate the accomplishments of AABA and Asian Pacific Americans in the legal profession. CPM is a major sponsor.

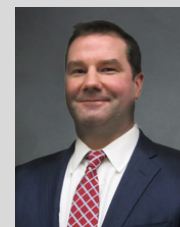
Joe Cotchett with  
Senator Elizabeth Warren  
at a recent political forumNiall McCarthy and  
Senator Kamala Harris at  
a Bay Area eventFrank and Diane Pitre  
with actor Patrick Dempsey  
at Gatepath eventNanci Nishimura meeting with  
Joe Biden in New York for  
AAPI Leaders Forum

## NEW ATTORNEYS AT CPM



### MALLORY A. BARR

- Notre Dame de Namur University, B.A.
- University of London, M.A.
- Santa Clara University School of Law, J.D.
- False claims act litigation, consumer protection, financial elder abuse, employment law, and other complex civil litigation.



### DONALD J. MAGILLIGAN

- Loyola Marymount University, B.S.
- University of San Francisco School of Law, J.D.
- Former State Prosecutor
- Mass consumer, mass torts and major fire cases and complex business fraud



### MICHAEL A. MONTAÑO

- Yale College, B.A.
- Stanford Law School, J.D.
- Antitrust, privacy law, business fraud and consumer protection.



### GINA X. STASSI

- Loyola Marymount University, B.A.
- Pepperdine University School of Law, J.D.
- Securities, investment fraud, business fraud, complex business cases

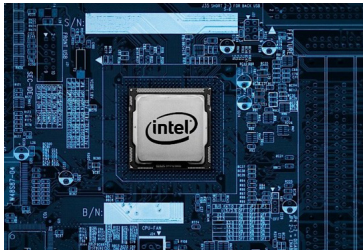
## BUSINESS & ENVIRONMENTAL UPDATES

### Ubiquiti Community Sham Case Alleges Falsity of Membership



CPM attorneys **Mark Molumphy**, **Stephanie Biehl** and team recently filed a shareholder derivative case against Ubiquiti Networks, Inc., its CEO, Robert Pera, and its Board of Directors for egregious breaches of fiduciary duty and fatal corporate governance flaws. The complaint alleges that Ubiquiti is reportedly in the business of developing and selling technology platforms and has, since before its IPO, touted its “differentiated business model” as its key driver of profits and success. The suit, however, alleges that the business model—use of a “Ubiquiti Community” in place of typical sales and marketing units—is essentially a sham, as Pera and his company lied about the size of the “Ubiquiti Community” (4 million members versus only 600,00 members in reality).

### Shareholders File Suit Against Intel Corporation for Undisclosed Security Vulnerability



Earlier this year, CPM filed a shareholder derivative complaint against the tech giant, Intel Corporation. The lawsuit alleges that back in June of 2017, Intel’s executive management and Board of Directors became aware of a security vulnerability in its processors which could, among types of harm, lead to CPU degradation in computers containing Intel processors by up to 30%. CPM’s case also alleges that Intel decided not to disclose this information to the public and, instead, only disclosed the information once the existence of these security vulnerabilities was leaked to media outlets. That is, despite knowing for six months that millions of customers worldwide faced a material risk to their privacy and overall cybersecurity, Intel’s officers and directors intentionally failed to notify the public of this information until they were “outed.” This case is led by attorneys **Mark Molumphy**, **Stephanie Biehl**, **Gina Stassi** and team.

### CPM Files Suit Against Apple for Slowing Down iPhone Performance After Updates



CPM recently filed a class action lawsuit against Apple, Inc. that alleges the company withheld material information from iPhone users relating to the installation of software updates that were supposed to improve product performance. The Complaint asserts that the software updates in fact included software that “throttled” or slowed down the processing speed of the iPhones and caused a dramatic decline in performance. The suit also states that Apple then continued to conceal this information for almost a year, during which millions of iPhone users continued to install the software updates, and did not inform iPhone users that the performance problems could be addressed by simply replacing the battery. The team leading the case includes **Joe Cotchett**, **Mark Molumphy**, **Stephanie Biehl** and **Gina Stassi**.

### Wells Fargo Bank Cases



CPM attorneys **Joe Cotchett**, **Mark Molumphy**, and **Stephanie Biehl** are actively litigating two shareholder derivative cases against Wells Fargo Bank. The allegations stem from the now infamous, decades-long sales abuses disclosed in late 2016 and from further illegal auto insurance and lending practices. The suits seek redress for Wells Fargo stockholders whom Wells Fargo’s pervasive misconduct has harmed.

### California Public Entities Recover Millions in Bond Financing Case



CPM attorney **Nanci Nishimura** concluded an eight-year fight to recover millions of dollars on behalf of 26 California public entities and non-profits against major bond insurance companies and credit rating agencies. The complaints alleged that the bond insurance companies and credit

rating agencies colluded to suppress a municipality’s credit rating which thus required the purchase of costly insurance to enhance the credit rating of bonds that were issued to raise money to build public projects including schools, hospitals and infrastructure. Nishimura’s team included **Ian Atkinson-Young**, **Jennifer Bloch** and **Koni Chen**.

### LIBOR Cases Pending in New York

CPM attorney **Nanci Nishimura** heads up a team representing more than a dozen public entities including The Regents of the University of California, San Mateo County, San Diego County, East Bay Municipal Utility District, and City of Houston, TX. The complaints allege that the elite bank members of the British Bankers Association that set the daily benchmark interest rate called the London Interbank Offered Rate (LIBOR) applied to trillions of dollars in global transactions, manipulated rates to benefit their own business interests. Governments around the world are investigating, and a number of LIBOR traders have gone to jail. In the US, class actions are consolidated for pretrial purposes in New York. Nishimura’s team includes **Alex Barnett**, **Ian Atkinson-Young** and **Jennifer Bloch**.



# ANTITRUST & BUSINESS FRAUD UPDATES

## Qualcomm's Anticompetitive Conduct Related to Licensing



CPM has been appointed interim co-lead counsel on behalf of plaintiffs in a lawsuit brought by consumers against Qualcomm for its alleged anticompetitive practices and attempts to monopolize the market. Such practices include its acquisition and maintenance of a monopoly in the market for modem chips, refusal to license on non-discriminatory terms its standard essential patents, and coercive exclusive dealing agreements, enabling Qualcomm to maintain a dominant market position, inhibit competitors, and artificially inflate the all-in costs to original equipment manufacturers which are passed on to consumers who buy cellular devices. The FTC has also filed an action against Qualcomm. The case is handled by **Joe Cotchett, Adam Zapala, Brian Danitz, Mark Ram, Michael Montaña** and team.

CPM has been appointed interim co-lead counsel on behalf of plaintiffs in a lawsuit brought by consumers against Qualcomm for its alleged anticompetitive practices and attempts to monopolize the market. Such practices include its acquisition and maintenance of a monopoly in the market for modem chips, refusal to license on non-discriminatory terms its standard essential patents, and coercive exclusive dealing agreements, enabling Qualcomm to maintain a dominant market position, inhibit competitors, and artificially inflate the all-in costs to original equipment manufacturers which are passed on to consumers who buy cellular devices. The FTC has also filed an action against Qualcomm. The case is handled by **Joe Cotchett, Adam Zapala, Brian Danitz, Mark Ram, Michael Montaña** and team.

## Price-Fixing of Domestic Air Travel First Settlement by Airline in Washington, D.C. Federal Court



CPM has been appointed co-lead counsel against defendants in an alleged illegal conspiracy to fix, raise, and maintain the price of domestic air passenger transportation through various means, including by eliminating or restricting the supply of domestic air transportation – otherwise known as

seating “capacity.” The case is pending in Washington, D.C. Extensive discovery has been taking place. Southwest has settled for \$15 million, which the Court has preliminarily approved. The case is being handled by **Adam Zapala, Alex Barnett, Brian Danitz, and Michael Montaña** and team.

## CPM Continues to Prosecute Significant Case Involving Price-Fixing of Capacitors

CPM is Lead Counsel and continues to successfully prosecute the *In re Capacitors Antitrust Litigation* case representing indirect purchasers of capacitors against defendants for allegedly engaging in two separate conspiracies to unlawfully inflate, fix, raise, maintain or artificially stabilize prices for electrolytic and film capacitors. Eight of these defendants have guilty and paid criminal fines to the DOJ and/or EU. Settlements have been reached with a number of defendants, and CPM looks forward to distributing that money to the victims. The case is being handled by **Joe Cotchett, Adam Zapala, Elizabeth Tran Castillo** and team.

## Price-Fixing of Generic Drugs in Philadelphia Federal Court



CPM has been designated by the District Court as part of the leadership team representing end payer plaintiffs that purchased generic drugs from defendants. Plaintiffs allege that defendants conspired to unlawfully raise the prices of certain generic drugs to supracompetitive levels - thereby injuring consumers. This case is being handled by **Adam Zapala, Alex Barnett** and team.

## CPM Wins Important Consumer Issue on Appeal



CPM won an important case before the United States Court of Appeals for the Ninth Circuit on the issue of whether federal courts have the power to adjudicate price-fixing conduct or must defer to regulatory agencies. Plaintiffs argued that the deregulation of the air transportation industry renders the filed rate doctrine inapplicable. The Ninth Circuit denied the defendants’ appeal which has broad implications for many antitrust cases and is a major victory for U.S. consumers and businesses. The Supreme Court of the United States denied the defendants’ Petition for Writ of Certiorari. The Federal Court has set a trial date of July 9, 2018. The case is being handled by **Joe Cotchett, Adam Zapala, Elizabeth Tran Castillo** and team.

## Auto Parts Price-Fixing Settlements Now Over \$1 Billion in Detroit Federal Court



The case involves a massive conspiracy to fix prices for component parts used in cars. Thus far, at least 43 separate auto parts have been identified as being the subject of price-fixing by defendants. The United States Department of Justice has called this conspiracy the “biggest criminal antitrust investigation that we’ve ever encountered . . . with respect to the impact on U.S. businesses and consumers.” Combined settlements in this case are now over \$1 billion. The case is being handled by **Adam Zapala, Alex Barnett, Elizabeth Tran Castillo** and team.

## Law360 Names CPM as a Top Law Firm in the Antitrust Law Field Nationally

In March, Law360 recognized CPM as “crowning the rankings of firms filing the most antitrust cases over the past five years are the ones frequently seen in those sprawling antitrust battles in U.S. district courts.” CPM has a total of 193 cases from 2013-2017 representing Plaintiffs and leads the nation’s plaintiff firm in antitrust cases.

## COMMUNITY ACTIVITIES



### CPM Joins San Mateo Police and Boys and Girls Club to Support Youths

In January, CPM staff joined the San Mateo Police Activities League (SM PAL) and San Mateo Police Officers for a charity ride at SoulCycle to support local youths and families. CPM's senior paralegal, **Darren Kelley**, serves on the Board of Directors for SM PAL as well as many local organizations including the San Mateo Boys and Girls Club.

### CPM Salutes 101st Airborne Division on 50th Anniversary of Adopted Soliders



Darren Kelley with  
Chair Linda Patterson

2018 will mark 50 years since the City of San Mateo "adopted" soldiers of the 101st Airborne Division, during the Vietnam War. **CPM** was a major sponsor that helped mark the celebration for veterans and the public. **Joe Cotchett** served as an officer in the U.S. Army as a Special Forces paratrooper and JAG Corps officer and retired with the rank of Colonel. **Pete McCloskey**

served in the Marine Corps as an officer and served in the Korean War - a recipient of the Navy Cross for heroism, the Silver Star and two Purple Hearts, McCloskey was a company commander and retired as a Colonel (See enclosed article). CPM's **Darren Kelley** served as a paratrooper in the 82nd Airborne Division and went into Panama in combat and CPM's Chief Technical Officer, **Victor Luscap** served in the U.S. Marine Corps. CPM supports various veterans groups.



### CPM Aids Hurricane Relief Efforts



In October, **CPM** made a major donation to the American Red Cross for those affected by Hurricane Harvey and Irma in Gulf Coast region and Florida. Hurricane Harvey brought record rain to parts of Texas and Louisiana burying the region in 27 trillion gallons and Hurricane Irma's intense winds and storm surges did serious damage to the fragile Florida Keys leaving thousands without shelter, food and clothing.

### Prevost Heads Up Organization for Canadians in the Bay Area



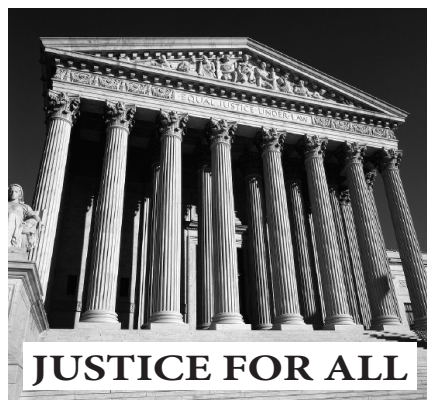
**CPM** attorney **Tamarah Prevost** is on the Board of Directors of the Digital Moose Lounge, an organization that aims to be the first point of contact for Canadians in the Bay Area. As the Director of Governance, Tamarah ensures that Canadian citizens have access to U.S. lawyers and the law when needed.



## COTCHETT, PITRE & MCCARTHY, LLP

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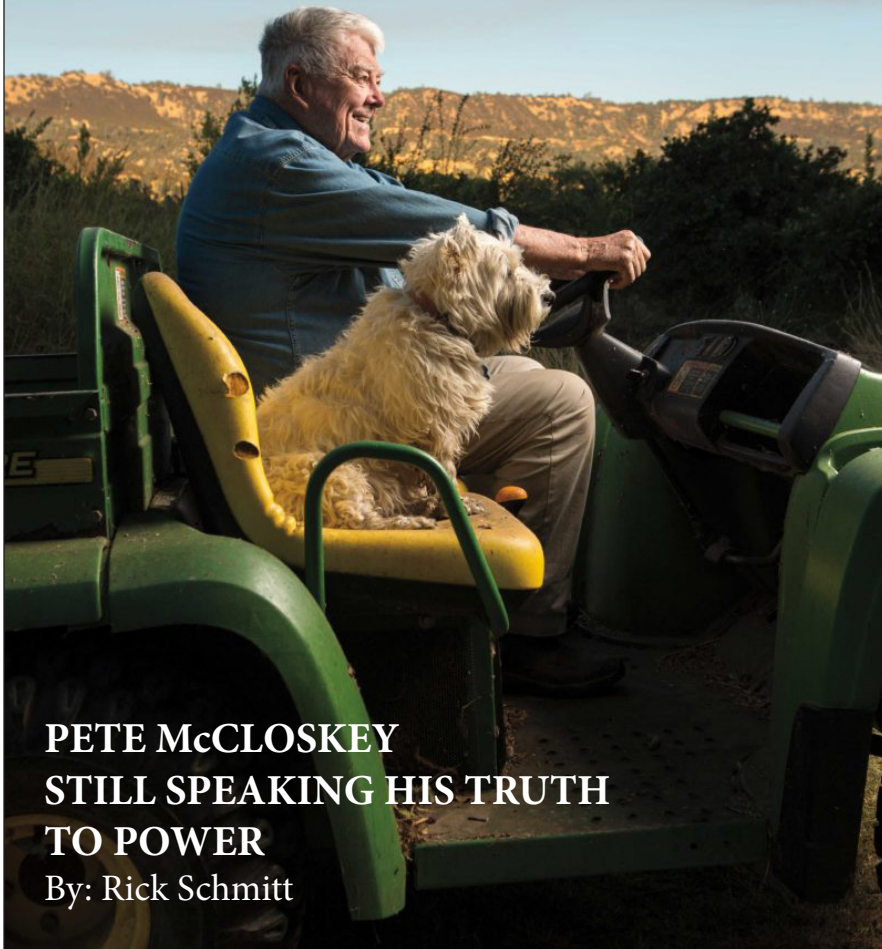
*"Cotchett, Pitre & McCarthy have few peers that equal their ability in litigation. Their commitment to the cause of justice and their ethical standards stand apart. They are people who give back to the community and give lawyers a good name."*

— Judge of the Superior Court (Retired)



# STANFORD LAWYER

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## PETE McCLOSKEY STILL SPEAKING HIS TRUTH TO POWER

By: Rick Schmitt

**PAUL NORTON “PETE” MCCLOSKEY, JR.,** IS WHAT SOME MIGHT NOSTALGICALLY CALL AN OLD-TIME REPUBLICAN. A fiscal conservative and social progressive in the mold of Theodore Roosevelt, he was at the forefront of both the environmental movement and the push to end the Vietnam War.

With a political career dating back to the late 1960s, McCloskey, JD '53 (BA '50), has left his mark on American life in many ways— perhaps most notably as an architect of the Endangered Species Act of 1973 and other seminal environmental laws. He even helped to organize the first Earth Day. But also notable was his disregard for party lines. He spoke his truth and pursued what he believed was right, regardless of the fallout.

He was a highly decorated leader of a near-legendary Marine rifle platoon in the Korean War—who became an early and ardent advocate for peace in Vietnam. He became the first member of Congress to call on the House of Representatives to consider the impeachment of Richard Nixon.

At 78, he mounted a quixotic congressional campaign to unseat a Republican incumbent he saw as corrupt. At 79, he registered as a Democrat—renouncing family roots in the Republican Party dating to the mid-19th century.

To say he is unhappy with the current state of affairs in Washington is an understatement.

“The political environment stinks more and is more controlled by big money today than during my brief stint in the political world from 1967 to 1983,” says McCloskey, who turned 90 in September. “We have become a militaristic and arrogant nation and have abandoned the thought of world peace through world law.”

McCloskey’s worldview was shaped by a family of lawyers and farmers with a history dating to the early days of California statehood. His great-grandfather was orphaned in the great potato famine and put on a boat for America, landing in San Francisco in 1853. He and his son, McCloskey’s grandfather, were farmers and early members of the Republican central committee in Merced.

His maternal grandfather served as mayor of San Bernardino, California, a U.S. attorney, and captain of a National Guard unit that was sent to San Francisco in 1906 to control rioting after the Great Earthquake. Paul N. McCloskey, Sr. (BA 1915) practiced law in Southern California, where his son was born in 1927.

Following in his father’s footsteps, McCloskey studied law, coming to Stanford at a time when the law school was on the threshold of becoming among the very best in the nation. Two future Supreme Court justices were in the class behind him. In the senior class ahead was Warren Christopher, JD '49, president of the new law review. But McCloskey downplays his academic accomplishments. Like his father, he joined the Stanford baseball team; unlike his father, he says he so enjoyed the experience he almost flunked out.

The Korean War interrupted his law studies and ball playing. He became a twice-wounded Marine Corps rifle platoon leader who led six bayonet charges against the enemy and was awarded the Navy Cross and Silver Star. Returning to school, McCloskey was so eager to be moving on with his life that he took the California bar exam a few months before graduating in 1953, a decision he says that horrified his professors. (He passed.)

The freshly minted lawyer served as a deputy district attorney in Alameda County, founded the firm McCloskey, Wilson & Mosher, a forerunner to Palo Alto’s Wilson Sonsini Goodrich & Rosati, and practiced environmental law, with SLS classmate and former Peace Corps director Lewis Butler, JD '51. They took on a cement company that planned to dig up a swath of California’s gold country, the

U.S. Army Corps of Engineers to stop a huge dam that would have displaced an Indian reservation, and developers of a subdivision that would have filled in sections of San Francisco Bay tidelands.

An invitation to a White House conference on civil rights in June 1963 whetted his appetite for public service. President Kennedy had gathered a group of lawyers from around the country and urged them to take action to address racial inequality in their communities. McCloskey responded by launching a campaign to persuade the State Bar of California to oppose a ballot initiative that would overturn a new state law that banned housing discrimination. The initiative passed but was later ruled unconstitutional by the U.S. Supreme Court.

McCloskey was also in the headlines for representing the city of Woodside in a lawsuit against Pacific Gas & Electric and the U.S. Atomic Energy Commission over an overhead power line to serve the Stanford Linear Accelerator. He prevailed—though Congress rushed through a bill exempting U.S. atomic energy installations from state or local regulation.

In spring 1967, political opportunity finally knocked, when the congressional seat for the San Francisco Peninsula was vacated—and former child star Shirley Temple Black became the odds-on favorite of the GOP establishment to fill it.

California at the time already had a former tap dancer as U.S. senator (George Murphy) and a former actor as governor (Ronald Reagan). McCloskey recoiled at the thought of another celebrity lawmaker. “Something snapped,” he says, “and I decided to run for office.”

Butler recalls a “battle royal” over the war between McCloskey and Nixon advisor John Ehrlichman, JD ’51—his moot court partner—while riding to work in a White House limousine the morning after Nixon’s announcement. “At that point, I think Pete decided he was going to get Nixon,” Butler says. That led in 1972 to his running against Nixon over the Vietnam war in the Republican presidential primary in New Hampshire. His insurgency candidacy in the primaries yielded only one delegate to the RNC in Miami. Nixon got the rest.

A year later, as the Watergate scandal began to unfold, McCloskey took to the House floor in June 1973 to advocate for what he called a “tempered” discussion of the possible impeachment of the president for obstruction of justice. McCloskey had read only two of the 11 pages of a speech suggesting that Nixon had violated several federal criminal laws when Republican loyalists cut him off on a procedural issue, according to an account in the New York Times. A year later, articles of impeachment against Nixon were reported to the full House for consideration, and Nixon resigned.

McCloskey was not done provoking the powerful. During the 1970s, he exposed a plan by the Carter administration to require the use of American-built and American-manned tankers to transport imported oil as payback for campaign contributions from the maritime industry. During the 1980s, he pushed mandatory national service legislation, despite opposition from the Reagan administration.

And, in what some observers say ultimately cut short his time in

Washington, he proposed cuts in foreign aid to Israel for expanding settlements on the West Bank.

“Pete felt U.S. policy was too one-sided, and too pro-Israel, and that we needed to hear arguments on the other side,” says Lee Aubry, a former McCloskey congressional aide who specialized in foreign affairs. “He feared that was going to potentially cause some kind of war in the Middle East. He feared it was going to start World War III.”

“It was hugely unpopular but he was being true to who he was,” Aubry adds. “He was always very much a maverick.” In 1982, McCloskey ran for an open U.S. Senate seat and lost, after opponents painted him as an existential threat to Israel.

Back in California, he returned to practicing law and bought a 140-acre farm in Yolo County, where he tends organic oranges and olives with his wife, Helen. He stepped back into the political fray in 2006 to run against a seven-term Republican member of Congress with ties to convicted lobbyist Jack Abramoff. He lost but got enough of the Republican vote to ensure the lawmaker’s ouster in the general election. A year later in 2007, McCloskey registered as a Democrat, fed up with the modern Republican Party’s hostility to progressives. More recently, he has been helping raise money for Democrats and throwing editorial grenades in a regular blog on the Huffington Post.

McCloskey says he is hopeful that a new generation of passionate students will rise up in 2018 and force Congress to re-establish bipartisan cooperation and balanced environmental protections. But he sees the political environment as polluted by big money. For young people thinking of public service, his advice is to succeed in some business or profession first, so that they can run without fear that if they lose, they can return to a better way of life.

“I accept the fact that my goals will not be achieved in my lifetime,” he says, “but wish better for Helen and my grandchildren and their heirs.” A bedtime ritual, meanwhile serves as a kind of coping mechanism.

“Our family consists of five rescue dogs that sleep with us,” he says. “When the newest horror is reported on TV, we thank our pagan presence on high for having the farm, our animals, and each other.” Then, they have a group hug.

### **CPM ESTABLISHES SCHOLARSHIP FUND FOR VETERANS AT STANFORD LAW**

A scholarship honoring former U.S. Congressman Paul Norton “Pete” McCloskey Jr. has been established at Stanford Law School this year. Funded with an initial gift from members of CPM, where McCloskey is still a principal, the McCloskey Scholarship Fund at Stanford will support veterans of the U.S. Armed Forces studying law. The fund recognizes McCloskey’s significant contributions to law and government service - as well as his own military service.



# Half Moon Bay Review

By Clay Lambert | March 20, 2018

## Jury awards \$2.3 million to former MLB pitcher



Former pitcher was injured in an altercation in front of his Half Moon Bay home.

A San Mateo County jury has awarded a \$2.3 million verdict to a former Major League Baseball pitcher injured while trying to protect his Ocean Colony home in 2015.

The verdict, delivered on Monday, found Dominic Pintarelli and Connor Pope negligent in the incident that left former big-league ballplayer Greg Reynolds with a broken pitching hand.

The incident occurred on Jan. 16, 2015, on the 300 block of Eagle Trace Drive in Half Moon Bay. On that day, according to court documents, Pintarelli, Pope and two others took LSD at the Pope residence. Afterward, Pintarelli behaved erratically. Witnesses said he took off his clothes, was screaming at bystanders and tried to knock down a mailbox in front of one home.

Reynolds reportedly approached Pintarelli, a recent Half Moon Bay High School graduate, and asked if he needed assistance. Pintarelli attacked the former pro athlete, who retreated into his home. Pintarelli continued to throw himself against the Reynolds front door and eventually Reynolds opened the door and punched Pintarelli, knocking the young man into the bushes. The blow fractured Reynolds' knuckles, according to county prosecutors.

San Mateo County Sheriff's deputies responded to the disturbance and used a Taser to subdue Pintarelli, who was later convicted of felony assault.

"(Pope and Pintarelli) were rolling the dice with the safety of their neighbors," said Reynolds' attorney, Niall P. McCarthy.

Reynolds, a former Stanford student-athlete, had played for the Cincinnati Reds in 2013 and professionally in Japan in 2014. Reynolds testified that he was unable to continue his career in baseball after the injuries suffered in the assault.

The jury in the civil case found Pope negligent for providing the venue for the drug-laced party and Pintarelli primarily responsible for Reynolds' injuries. McCarthy said on Tuesday he expected the judgment to be paid by homeowners insurance purchased by Pope's parents.

The judgment included \$300,000 for Megan Reynolds, the wife of the former pitcher. Greg Reynolds has not returned to baseball. He currently lives in the Sacramento area, McCarthy said.

# Facebook hit with shareholder lawsuits over data misuse crisis

Natasha Lomas@riptari / Mar 23, 2018



The lawsuits are piling up against Facebook in the wake of the Cambridge Analytica data misuse and political ad targeting scandal.

According to SF Gate the company has been hit with four suits in federal courts so far this week following fresh revelations about how Facebook's app permissions were abused to surreptitiously suck out vast amounts of user data.

One lawsuit filed yesterday in Northern California on behalf of a Facebook shareholder, Jeremiah Hallisey, alleges the company's senior management "breached their fiduciary duties by failing to prevent the initial misappropriation [of user data by CA] and, after learning of it in 2015, failing to inform affected Facebook users or the public markets".

The complaint names Facebook founder and CEO Mark Zuckerberg; COO Sheryl Sandberg; and board members Marc Andreessen, Peter Thiel, Reed Hastings, Erskine Bowles, Susan Desmond-Hellman and Jan Koum as defendants.

It notes Facebook has lost \$50 billion in market capitalization since the data leak was disclosed, and flags reports that the FTC has launched an inquiry into Facebook's conduct and whether it violated the terms of a 2011 consent decree that requires the company to notify users before sharing their data with third parties.

We've reached out to Facebook for comment but at the time of writing the company had not responded.

Last week the New York Times and the Observer of London reported revelations from former CA employee Chris Wylie, who detailed how working with a University of Cambridge psychology professor who had developed a survey app to run on Facebook, the political consultancy had been able to obtain vast amounts of user information — as many as 50 million US Facebook users' profiles — without the vast majority of the users being aware their data had been harvested nor what it would be used for. The firm had been working for the Trump presidential campaign.

After the newspaper reports Facebook acknowledged that 270,000 people had downloaded the survey app.

CEO Mark Zuckerberg has also since gone on CNN to apologize. But the scope and scale of the data mishandling, coupled with Facebook's failure to inform users when it found about the policy breach in 2015 have played very badly with markets and users alike...

"The recent revelations regarding Facebook's actual practices with respect to user privacy and data security have severely damaged the Company's reputation and imposed significant costs on it, including regulatory investigations, lost business, exposure to litigation, and other damages," the complaint runs, before going on to allege that Facebook sought to "downplay concerns about access to user information" and "continued to assure investors that Facebook maintained effective" internal controls and systems that automatically detected 'suspicious activity'".

In a statement, Mark Molumphy, a partner with Cotchett, Pitre & McCarthy — the firm representing Hallisey — said: "Facebook's apology doesn't do much for the millions of Americans impacted by this conduct. It also doesn't explain why Facebook executives waited three years to inform their loyal users and shareholders of the massive breach, especially on the heels of the FTC consent decree in 2011. This action seeks accountability from those entrusted to safeguard our personal information and who seem to pay only lip service to the privacy concerns of their users."

Also adding to the awkward questions for Facebook: Board member, Thiel, who supported Trump's presidential bid, made a \$1M financial donation to a Trump-supporting Super PAC, called Make America Number 1, in 2016 — which Mashable reports subsequently paid Cambridge Analytica \$231,352 toward the end of the same year, per an FEC filing.

Earlier this week, a proposed class action was also filed in California by a group of Facebook users seeking damages from the company for failing to protect their data.

On Tuesday, another shareholder lawsuit was filed. Gizmodo reports that complaint shareholder Fan Yuan has accused the company of making "materially false and/or misleading" claims about its handling of user data, and failing to disclose the ongoing situation has reduced the value of Facebook shares.

A fourth suit has been filed by another shareholder, Robert Casey. And Facebook will surely face more before the outrage over this epic fail privacy scandal burns out.

It also seems very likely that additional app permissions problems will come to light as Facebook has committed to a historical audit of any apps that were accessing large amounts of user data around the same time as CA was. Safe to say, it would be very unusual if the app used by CA to suck out Facebook profiles en masse was the only third party app to be acting out before Facebook acted on regulatory recommendations to tighten its app permissions, starting in 2014.