

# ADVOCATES FOR JUSTICE

San Francisco Bay Area • Sacramento • Los Angeles • Washington, D.C. • New York



## CP&M NAMED TO NATIONAL LAW JOURNAL'S "HOT LIST" OF LAW FIRMS

CP&M has once again been named to the prestigious *National Law Journal's* "Plaintiffs' Hot List" for 2011 which recognizes firms that are at the cutting edge of litigation. Twenty firms were named. CP&M was lauded for high-profile wins in 2011 including *State of California v. Quest Diagnostics, Inc.*; *In re Static Random Access Memory (SRAM) Anti-trust Litigation*; and *Massoyan v. HL Leasing, Inc.*

## CP&M HELPS THE COMMUNITY REBUILDING TOGETHER 2012



For many years, members of CP&M have participated in Rebuilding Together, the nation's leading nonprofit organization, working to preserve affordable home ownership and revitalize communities for low income homeowners, particularly the elderly and those with disabilities. This year, the CP&M team was headed up by **Debbie Mitchell**, CP&M Facilities Manager, and a team of 40 CP&M volunteers, working two consecutive Saturdays to scrape, prime, paint and restore the residence of a 90-year old woman living in San Mateo. Donors contributed supplies, tools and equipment, and volunteers committed the elbow grease to make the repairs and renovations for our neighbors in need. These projects could not happen without the involvement of each of these groups. CP&M donated more than \$10,000 to Rebuilding Together Peninsula this year alone.

YEAR OF THE  
**DRAGON**  
2012



## CP&M WELCOMES FORMER JUDGE AS A MEMBER OF THE FIRM



**Hon. Frank C. Damrell, Jr.**, a retired **United States District Judge** and advocate for civic education, joins CP&M as a principal. He received a Bachelor of Arts from the **University of California, Berkeley** in 1961, Bachelor of Laws from **Yale Law School** in 1964, and Doctorate of Law (Hon.) in 2005 from the **University of Santa Clara**. Damrell will head up the Sacramento office of CP&M.

CP&M 在萨克拉门托, 旧金山, 洛杉矶, 纽约和华盛顿 特区设有办事处



## HONORS FOR CP&M ATTORNEYS & STAFF

### McCARTHY AND BERGER HONORED WITH 2012 CLAY AWARD



Niall McCarthy and Justin Berger received a 2012 Attorney of the Year Award from *California Lawyer* magazine. McCarthy and Berger were honored with one of the CLAY

Awards under the category of False Claims for securing the largest False Claims Act recovery in California history: over \$300 million in settlements, including a \$241 million settlement from the largest provider of medical laboratory testing for the state's Medi-Cal program. *California Lawyer* recognized attorneys in 20 areas of legal practice for 26 accomplishments that made a significant impact in 2011 and in the law.

### PARTNERS NAMED TO SUPER LAWYERS 2012

Every partner at CP&M was named to the 2012 Super Lawyers list for Northern California. The annual list comes out of almost 65,000 lawyers in the region and is a selection based on peer review of lawyers in the area.

### McCARTHY HONORED AT 65TH ANNUAL SUPREME COURT EVENT



In April, Niall McCarthy, along with Paul Kiesel of Kiesel Boucher Larson, were recognized with the Access to Justice Award at The Lawyers' Club of San Francisco 65th Annual Supreme Court lunch. They were acknowledged for dedicating their work on behalf of the entire California legal community as Co-Chairs of the Open Courts Coalition to seek restoration of court funding. Among those to honor the recipients were Chief Justice Tani Cantil-Sakauye and Hon. Vaughn R. Walker (Ret.).



### JUDICIAL COUNCIL OF CALIFORNIA PRESENTS AWARD TO COTCHETT

In December, Joe Cotchett was honored by the Judicial Council of California as a winner of a 2011 Distinguished Service Award. Chief Justice Tani Cantil-Sakauye presented the Bernard E. Witkin Amicus Curiae Award to Cotchett. The award honors individuals other than members of the judiciary for outstanding contributions to the California court system. Honorees of other awards included Hon. Maria P. Rivera, Hon. Brad R. Hill, Hon. Ronald B. Robie, Hon. Noreen Evans and Michael D. Planet.

### BERGER AND EDLING NAMED THE RECORDER'S "FAST TRACK" LAWYERS



Matthew Edling and Justin Berger have been named as two of *The Recorder's* "Fast Track" lawyers. The list is comprised of 50 attorneys "whose early accomplishments indicate they will be tomorrow's top lawyers and leaders." The winners were selected from 300 nominees comprised of California lawyers with less than ten years in practice.

### Cotchett, McCarthy and Fineman Make Lawdragon 500 List

Joe Cotchett, Niall McCarthy and Nancy Fineman have been selected to the 2011 Lawdragon 500 Leading Lawyers in America list. The attorneys on this list are chosen based on their accomplishments of the past year, their professional abilities and reputations.



## CP&M WELCOMES NEW ASSOCIATES



### ALEXANDRA HAMILTON

Received her B.A. in Political Science with an International Relations emphasis and a Minor in History from the University of California, Santa Barbara and her J.D. from Santa Clara University, School of Law.



### GENE KIM

Received his B.A. in Political Science from the University of California, San Diego and earned his J.D. from Santa Clara University, School of Law. He also studied abroad at Yonsei University in Seoul, Korea.



### ADAM ZAPALA

Received his B.A. from Stanford University. He then played professional soccer for Dallas. He later earned his J.D. from University of California, Hastings College of the Law.

## THANK THOSE WHO SERVE

### PETE McCLOSKEY PRESENTS HIS PURPLE HEART TO HON. JACKIE SPEIER



Former Congressman Pete McCloskey presented U.S. Rep. Jackie Speier, D-San Mateo, one of his two Purple Heart medals for her courageous work in public service. Speier was shot in 1978 while serving as an aide to U.S. Rep. Leo Ryan after the pair and others traveled to Jonestown in Guyana. The proclamation presented to Speier Dec. 23 before members of CP&M lauded Speier for demonstrating “incredible valor” and surviving her wounds “to become a brilliant spokesperson in great causes on the floors of both the state Legislature and the U.S. Congress.” McCloskey, a retired Marine Corps colonel, was wounded while fighting in Korea from 1950 to 1952 and was awarded the Purple Heart. He served in the U.S. Congress from 1967 to 1983.

## SPEAKING OUT ON ISSUES

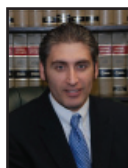
### RALLY FOR JUSTICE



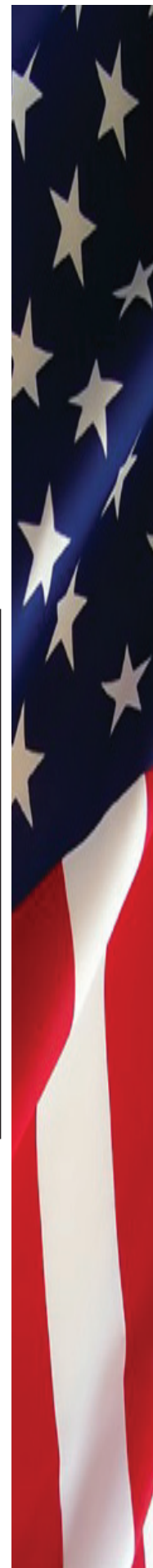
In April, Niall McCarthy helped organize and spoke at the “Stand Up For Justice Rally” in San Francisco to draw attention to the massive cuts to court funding in California (since 2008, California’s courts have lost 30% of their funding). Niall is co-chair of the California Open Courts Coalition, along with Los Angeles attorney Paul R. Kiesel. The Open Courts Coalition’s April 18 rally drew a long list of speakers including Attorney General Kamala Harris, Mayor Ed Lee of San Francisco and participants from the legal community, labor unions and the public. Niall told the crowd that “lawyers are in a unique position to see the impact of court closures on clients,” and asked that attorneys, who “by nature fight for their clients, use that desire and drive to fight for our courts.”

## UPDATE: SAN BRUNO PIPELINE EXPLOSION

### TRIAL TO START IN JULY



Trial in the San Bruno Fire litigation is set to commence on **July 23**, in San Mateo County Superior Court. The trial will consist of ten representative cases, with a wide range of injuries and damages suffered by residents of San Bruno as a result of the PG&E pipeline explosion. CP&M attorneys representing the trial Plaintiffs is headed by **Frank Pitre**, **Ara Jabaghourian**, **Jessica Curiale** and **Alexandra Hamilton**. Pitre has been designated by the Court as one of the lead trial attorneys.



## CASE UPDATES

### ANTITRUST

#### CP&M APPOINTED TO CO-LEAD GLOBAL AUTO PRICE-FIXING SUIT IN DETROIT



CP&M has been named one of three firms heading up the civil prosecution of one of the largest international price fixing cases in history. The case involves a ten-year conspiracy by American, Japanese, and European companies to fix the prices of parts used by Ford, General Motors, Toyota, Honda and other automakers to manufacture cars and trucks. Consumers bore the brunt of the conspiracy when increased costs were passed on to purchasers of cars and trucks. **The case is pending in federal court in Detroit, Michigan.** Several companies and executives have pled guilty to violating the Sherman Antitrust Act and paid the largest fines in the 100+ year history of that law. Executives have gone to jail. The CP&M team is headed up by **Joe Cotchett, Steve Williams, Adam Zapala, and Gene Kim.**

### FREIGHT FORWARDERS LITIGATION

CP&M as co-lead, has reached settlements exceeding \$45 million, and may exceed \$65 million with several large defendants still in the case. The case involves a world-wide conspiracy by freight forwarders – companies that deliver materials for business throughout the world – to fix the delivery prices and thus increase prices that consumers pay for virtually every product shipped internationally. The case is pending in the United States District Court in Brooklyn, New York, and is being led by **Steve Williams and Imtiaz Siddiqui.**

#### COURT GREEN-LIGHTS OPTICAL DISK DRIVE CASE

CP&M is a member of the Executive Committee in the Optical Disk Drive price-fixing case. In April, the Northern District of California gave the go-ahead to the case, ruling that the complaint properly alleged a global price-fixing conspiracy by manufacturers. Several companies and executives have already pled guilty. The case is being led by **Steve Williams.**

## SECURITIES LITIGATION

### LEHMAN BROTHERS CASES

CP&M, on behalf of several California public entities, is fighting to ensure that the chief architects of Lehman's collapse are personally held accountable for their fraud on California's public entities. **Mark Molumphy** and **Matt Edling** have fought off six different motions brought by former Lehman Brothers directors and officers, their auditor, and more than twenty banks who aided Lehman in its fraudulent scheme. The case is before Judge Kaplan in the **Southern District of New York.**

### BRITISH PETROLEUM (BP, plc)

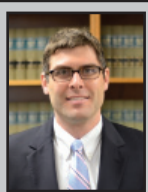
**Joe Cotchett, Mark Molumphy, Matt Edling, and Bryan Payne** along with the Ohio and New York state pension funds represent the shareholders of BP, plc on stock losses over the spill in 2010. The case is awaiting a ruling on pleading motions in Houston.

### PACIFIC WEST SECURITIES ARBITRATION

After four weeks of trial, a FINRA arbitration panel found in favor of CP&M's clients on all counts. In one of the first collective actions since the Supreme Court issued its opinion in *AT&T Mobility LLC v. Concepcion*, 131 S. Ct. 1740 (U.S. 2011), **Steve Williams** and **Matt Edling** tried the case on behalf of fifty individuals with losses in excess of six million dollars.

## FINANCIAL AND GOVERNMENT FRAUD

### MADOFF PONZI SCHEME



The CP&M Madoff litigation team of **Nancy Fineman, Imtiaz Siddiqui** and **Brian Schnarr** continues to guide its clients through this complex legal environment while Justice Lowe considers whether to allow all four New York State cases to proceed against Bernie Madoff's co-conspirators, JP Morgan and others. CP&M is working with other law firms to coordinate the discovery against several defendants tied to Madoff and his companies.

### CP&M REPRESENTS PUBLIC ENTITIES IN MUNICIPAL DERIVATIVES RIGGING CASE

CP&M is prosecuting individual actions on behalf of dozens of **California** public entities against the largest financial institutions in the country for their role in a massive conspiracy to rig the bidding process for the investment of billions of dollars in unused bond proceeds. In May, a New York jury convicted three former bank executives on the bid-rigging conspiracy charges and defrauding public entities. The case is led by **Nanci Nishimura, Daniel Sterrett** and a team of paralegals.

### COURT RULES ON BOND INSURERS' ANTI-SLAPP MOTION



CP&M is prosecuting individual actions on behalf of dozens of public entities and non-profits involving bonds issued to fund state and local infrastructure projects. In May, the Court denied the first prong of Defendants' Special Motion to Strike under the Anti-SLAPP Statute as to Plaintiffs' breach of contract and fraud and deceit claims on the grounds that they are exempt under the Code of Civil Procedure Section 425.17(c) "commercial speech Anti-SLAPP exemption." The case is led by **Joe Cotchett, Nanci Nishimura, Daniel Sterrett** and a team of paralegals.



## CURRENT ACTIVITIES

### CP&M SUCCESSFULLY DEFENDS CHINESE CORPORATION IN SECURITIES ACTION



Steve Williams, Aron Liang and Victor Elias represent VanceInfo Technologies, Inc., one of the largest IT companies in China, in a securities action brought in California state court. CP&M was able to successfully get the majority of the claims dismissed and was able to resolve the entire action in a year, with all claims against VanceInfo being dismissed. Williams said “representing international companies poses unique challenges but also offers opportunities to build relationships in the global economy.”

### NISHIMURA APPOINTED TO ASIAN ART MUSEUM BOARD



CP&M partner, Nanci Nishimura has been appointed to the prestigious Asian Art Museum Board of Trustees. The Museum holds a world-renowned collection spanning 6,000 years of history. Nishimura studied in Japan and was an editor for noted art scholar Sammy Yukuan Lee, the benefactor of the UCLA Center for Chinese Studies.

### MEDICAL SERVICES BILLING FRAUDS

CP&M is investigating a complex web of medical billing fraud emanating from Southern California, and spreading across the United States. The fraud involves overbilling by hospitals, and the payment of kickbacks, harming both small businesses, and injured workers. The billing is for both unnecessary operations, fake products and durable medical equipment overcharges.

### FINEMAN SERVES ON STATE BAR BOARD



Nancy Fineman, elected last year as **Trustee of the State Bar of California**, is a member of a 23 person Board which oversees the professional conduct of the state’s 237,000 lawyers and works to provide greater access to the justice system for all citizens. The State Bar serves as an arm of the California Supreme Court. This year’s work has been especially challenging due to the severe cuts in court funding and the impact those cuts have on all Californians.

### CPM AIR GETS NEW KING AIR 250



To serve clients, CP&M operates a King Air 250 out of San Carlos. Over the last 10 years, CP&M flew over 750,000 miles throughout the West Coast. **CPM Air Chief Pilot, Chris Cooke** has been with CPM Air for 10 years and flies with co-pilots, **UJ Emetarom** and **Brian Joost**.

## SPECIAL RECOGNITION



### FROM THE BEGINNING...

Mary Wrenn has been with the firm since it’s beginning - 1968. The firm began with two people when Joe Cotchett hired her. During this time she served as **President** of the San Mateo County Legal Secretaries Association and earned a paralegal degree. After **44 years** with the firm, Mary will be retiring this Summer. Mary is one of the true pioneers of the firm who has helped to make it what it is today. A native of Utah, she graduated from Stevens-Henager College.



**SANDI LITTLE**  
Receptionist  
Since 1995

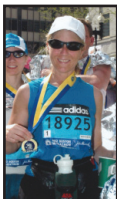


**VICTOR LUSCAP**  
Chief Technical Officer  
Since 1995



**DEBBIE MITCHELL**  
Facilities Manager  
Since 1986

### O'MALLEY RUNS THE BOSTON MARATHON



In April, **Patrice O'Malley** ran the 2012 Boston Marathon along with thousands of other participants. The Boston Marathon is the world’s oldest annual marathon and ranks as one of the most prestigious road races. O'Malley has run in over 30 marathons and ultramarathons from the West Coast to the East Coast.



*Justice delayed is democracy denied.* - Robert F. Kennedy

## **RECENT CASE DEVELOPMENTS**

### **PAY BY TOUCH LITIGATION**



After years of intense litigation, UBS and the Directors and Officers of Pay By Touch finally agreed to a substantial settlement. CP&M's clients were investors in a biometrics payment company - Pay By Touch. Through UBS, the company raised almost \$400 million. Through numerous confidential documents and thorough expert reports, CP&M established that clients were misled about the state of the technology and the number of customers with signed contracts. The case team was led by **Phil Gregory** and **Camilo Artiga-Purcell**.

### **CP&M FILES SUIT FOR VICTIMS OF MF GLOBAL FRAUD**



A class action lawsuit was filed on behalf of MF Global customers alleging that MF Global's former officers including former CEO Jon Corzine, the Company's independent auditor, PricewaterhouseCoopers LLP, and its chief banker JPMorgan Chase & Co., improperly raided customer brokerage accounts to meet the firm's liquidity need. Estimated losses are more than \$1.2 billion in customer funds – supposedly held in trust by MF Global. The case was filed in Federal Court in **Montana** on behalf of all United States based clients of MF Global. The securities team is lead by **Mark Molumphy, Matthew Edling, Imtiaz Siddiqui, Bryan Payne** and **Hester Cheng**.

### **CP&M PROCEEDS ON BEHALF OF BANK OF AMERICA TRUST BENEFICIARIES**



After a reversal in the 9th Circuit, CP&M's suit for Bank of America Trust Beneficiaries has been **reinstated** in the Northern District. CP&M is pursuing the actions with the Minami Tamaki firm to recover losses caused by Bank of America self-referrals of proprietary funds to mutual funds. **Niall McCarthy, Anne Marie Murphy** and **Eric Buescher** are handling the case for CP&M. Banks and trust institutions throughout the United States are monitoring this case.

**COTCHETT, PITRE & McCARTHY, LLP**  
**840 MALCOLM ROAD**  
**BURLINGAME, CA 94010**  
**[www.cpmlegal.com](http://www.cpmlegal.com)**



**PERSONAL NEWSLETTER**