

# ADVOCATES FOR JUSTICE

SAN FRANCISCO BAY AREA • LOS ANGELES • SEATTLE • NEW YORK

## BAY AREA COLLEGE DISTRICT FILES SUIT AGAINST CONTRACTORS AND ARCHITECTS FOR ALLEGED FRAUD AND "PAY TO PLAY" SCHEMES ON VARIOUS SCHOOL PROJECTS



CPM acting on behalf of the San Mateo County Community College District filed a suit against construction contractors and

architects for fraud and "pay to play" schemes to use a billion dollars in public bond money during the tenure of former Chancellor Ron Galatolo. As alleged in the Complaint, Defendants Allana Buick & Bers, Inc., McCarthy Building Companies, Inc., Bunton, Clifford & Associates, Inc., Robert A. Bothman, Inc., and Blach Construction Company, provided luxury travel, gifts, construction on personal residences, employment for relatives and others to secure lucrative contracts for Skyline College, College of San Mateo, and Cañada College. The case is being handled by **Joe Cotchett, Niall McCarthy, Anne Marie Murphy, David Hollenberg** and team.

## CPM RECOVERS FUNDS FOR LOCAL SCHOOLS IMPACTED BY VAPING EPIDEMIC - JUUL



After three years of litigation, San Mateo County schools have reached a groundbreaking settlement with **JUUL**. In December 2019 the San Mateo County Board of Education, the San Mateo County Superintendent of Schools, Cabrillo Unified School District, San Mateo-Foster City School District, Jefferson Union High School District, and the South San Francisco Unified School Districts filed suit against JUUL and related companies for harm caused by the vaping epidemic. The San Mateo County schools were among the first in the nation to file suit to hold JUUL and Big Tobacco responsible for the vaping epidemic, which was spurred by advertising designed to addict a new generation of smokers. The case is being handled by **CPM's Joe Cotchett, Anne Marie Murphy and co-counsel.**

## CPM REPRESENTS SILICON VALLEY BANK SHAREHOLDERS



The collapse of Silicon Valley Bank has caused a major economic hit in the tech and financial world and CPM was asked to immediately help. Led by **Joe Cotchett, Mark Molumphy** and team of **Tyson Redenbarger** and **Gia Jung**, they are representing shareholders who were wiped out on the incredible collapse of the major bank.

## THE SAN MATEO COUNTY BOARD OF EDUCATION AND THE SAN MATEO SUPERINTENDENT OF SCHOOLS FILE LANDMARK SUIT AGAINST SOCIAL MEDIA COMPANIES



CPM filed suit this week on behalf of the San Mateo County Board of Education and the San Mateo County Superintendent of

Schools over the youth-targeting business practices of Defendant social media companies, YouTube Inc. (and related companies, Alphabet Inc., XXVI Holdings Inc., Google LLC), Snap Inc., and TikTok Inc. (and related company, ByteDance Inc.). As alleged in the Complaint, the San Mateo County educators assert that the current youth mental health crisis has been made worse by the social media industry's deployment of artificial intelligence and machine learning to manipulate a youth audience with the goal of keeping children and teens engaged with their products in harmful ways. The case is being handled by **Joe Cotchett, Karin Swope, Anne Marie Murphy, Brian Danitz, Andrew Kirtley, Galen Cheney, Gayatri Raghunandan** and team.

## BOEING TRIAL STARTING IN CHICAGO FOR ETHIOPIAN CRASH OF 2019



The first of the trials against Boeing will begin in June 2023 to determine the amount of compensation owed to families of victims of the crash of Ethiopian Airlines Flight 302 on March 10, 2019. Boeing has admitted that its unsafe airplane, with its defective MCAS flight controls system, is solely responsible for the crash which took the lives of 157 people. **CPM** and its co-counsel represent the families of numerous victims from various countries. CPM attorneys **Frank Pitre, John Thyken, Nabilah Hossain** lead CPM's Boeing Team.



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YEAR OF THE RABBIT 2023

## MAJOR FILINGS & DECISIONS

### LANDMARK RULING IN JOHN'S GRILL COVID-19 LAWSUIT COURT OF APPEAL REJECTS THE HARTFORD'S "HEADS I WIN, TAILS YOU LOSE" INTERPRETATION OF BUSINESS INTERRUPTION INSURANCE POLICY



The California Court of Appeal issued a surprise unanimous ruling in John's Grill's lawsuit against The Hartford and its affiliate Sentinel Insurance Company over their decision to deny insurance coverage for business interruptions during the Covid-19 pandemic. The decision in favor of John's Grill diverges from dozens of prior cases that dismissed policy holder claims, finding "those cases involve very different policy provisions." As previously announced, the parties had settled the case for an undisclosed amount. However, the Court of Appeal declined to dismiss the case, finding the appeal raises issues "of continuing public interest which are likely to recur." In a sweeping 44-page decision, the court found the business interruption insurance policy provided coverage, including the costs of cleaning the restaurant's surfaces and testing to see if the virus is present. The Court rejected The Hartford's argument that the policy was limited to unlikely scenarios, such as when the virus is the result of a tornado, vandalism, water damage or equipment breakdown, finding those circumstances "exceedingly rare, even freakish," stating: "We fail to see what these oddball scenarios have to do with this case." The case is being handled by **Nanci Nishimura, Brian Danitz, Andrew Kirtley** and team.

### FAMILY OF ELDERLY RESIDENT WHO WAS POISONED AND DIED AT ATRIA PARK OF SAN MATEO FILES LAWSUIT



Lifelong San Mateo resident Trudy Maxwell died at 93 on August 29, 2022. Her death was caused by being served industrial strength cleaner instead of juice by Atria San Mateo. The Complaint alleges that Atria had a similar poisoning a few days before at their Contra Costa facility, yet took no corrective measures. Two excruciating days after the poisoning, Mrs. Maxwell died. Despite acknowledging the poisoning, Atria has yet to issue the family any apology. Instead, Atria has embarked on a disinformation campaign. **Niall McCarthy** of **CPM** stated: "Mrs. Maxwell's avoidable death was a tragic part of the epidemic of neglect of seniors. Atria's job is to enhance the lives of seniors, but they ended Mrs. Maxwell's life. Atria served Trudy a cleaner which was more toxic than Drano. When you place your loved one in a senior facility, you do not expect it to be one of the most dangerous places in the Bay Area."

### CPM FILES CONSUMER FRAUD CASE AGAINST AMBETTER HEALTH INSURANCE PLANS



**CPM** and co-counsel have filed a consumer fraud action against a number of health insurance entities generally known as "Ambetter." Plaintiffs allege Ambetter intentionally targets its health insurance products to low-income individuals who are often transitioning off of Medicaid in their respective states by making false and misleading representations regarding its services. Specifically, Plaintiffs allege that consumers have been overcharged because Ambetter does not deliver the benefits as advertised and fails to satisfy the minimum requirements imposed by the Affordable Care Act and other federal and state laws and regulations. Plaintiffs further allege that the provider networks are misrepresented and members have difficulty finding in-network providers. Plaintiffs also allege Ambetter plans routinely refuse to pay for medical services and medications that the plan purportedly covers. The case is being handled by **Adam Zapala, Elizabeth Castillo, Alex Barnett, Gayatri Raghunandan** and team.

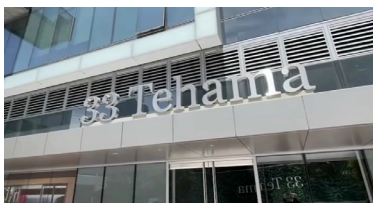
### THE FIGHT TO UPHOLD THE CITY OF SAN JOSE'S FIRST-OF-ITS-KIND GUN ORDINANCE CONTINUES



**CPM** represents the City of San Jose in defense of its first-of-its-kind gun ordinance, which requires all gunowners within the City to obtain insurance to cover accidental harm that may be caused by their guns, and pay \$25 to a non-profit organization to provide services within the City such as suicide prevention, domestic violence, and gun safety. Three sets of plaintiffs filed legal attacks against the Ordinance. In August 2022, the judge denied a preliminary injunction filed by one plaintiff group, led by the National Association of Gun Rights, which tried to immediately halt the Ordinance. The Court, at the City's request, dismissed nine of the ten claims brought by two plaintiff groups. The same two plaintiff groups filed a new complaint, which the City has since moved to dismiss. The Court is expected to rule on the City's motion in June 2023. This case is being run by **Joe Cotchett, Tamarah Prevost, Andrew Kirtley** and team.



# FALSE CLAIMS & CONSUMER FRAUD UPDATE



## LAWSUIT FILED OVER MASSIVE WATER LEAKS AT SOMA LUXURY HIGH RISE THAT LEFT TENANTS DISPLACED AND DISTRESSED

A group of over 50 tenants of 33 Tehama Street, San Francisco joined together to file a mass tort lawsuit against Hines Interests Limited Partnerships in San Francisco County Superior Court over the corporate giant's causing and mishandling of two mass water leaks which began in June 2022. The suit alleges Hines violated various laws in failing to properly maintain the property and timely repair the leaks and resulting flooding. Tenants allege Hines acted in bad faith by failing to provide promised relocation and other expenses, failing to ensure safety in securing units and tenants' property during repairs, and causing stress and discomfort to residents displaced by the massive leaks which rendered the building uninhabitable. Some tenants who filed suit had personal belongings stolen by contractors who were supposedly repairing the damage caused by the leaks and have been victims of identity theft due to Hines's negligence. Tenants still do not know if, and when, they can move back, and many no longer trust Hines even if they are permitted to return. The Complaint alleges that prior to the massive leak in June, and the subsequent August leak, city records show that several complaints, including about leaks in the building, were made years prior. The case is handled by **CPM's Niall McCarthy, Nazy Fahimi, David Hollenberg** and team.

## CPM FILES CLASS ACTION AGAINST FOR-PROFIT ONLINE TECH SCHOOL



**CPM** and co-counsel from Student Defense have filed a class-action lawsuit in San Francisco County Superior Court against Bloom Institute of Technology, formerly Lambda School, for allegedly operating without proper licenses and duping students into signing away their future earnings. The lawsuit also names company founder and CEO Austen Allred alleging he misled students about job placement rates while the company acted as an unlicensed student lender. The lawsuit is the latest in a string of cases that CPM have brought against the online school. CPM's efforts are being led by partner **Justin Berger**.

## CPM APPOINTED LEADERSHIP TEAM FOR DEFECTIVE AIRBAG INFLATORS CASE



On March 15, 2023, U.S. District Judge Eleanor L. Ross appointed **CPM** partner, **Elizabeth Castillo**, as a member of the Leadership Team in In re: ARC Airbag Inflators Products Liability Litig., MDL No. 3051, Case No. 1:22-md-03051 (N. D. Ga.). Liz was one of seven members appointed to lead this economic loss class action involving allegedly defective airbag inflators designed by ARC Automotive Inc. and installed in millions of vehicles in the U.S. No stranger to the automotive industry, Liz's appointment to the Leadership Team in this MDL comes on the heels of her arguing for and obtaining final approval of the fifth and final round of settlements in In re Auto. Parts Antitrust Litig., MDL No. 2311, Case No. 2:12-md-02311 (E.D. Mich.), on February 6, 2023. CPM serves as co-lead counsel for the End-Payor Plaintiffs in that antitrust class action. This last round of settlements closes out 10 years of active litigation against 73 global automotive parts suppliers that resulted in over \$1.2 billion in settlements to consumers and businesses in the U.S.

## MAJOR APPELLATE VICTORY IN FALSE CLAIMS CASE



In a published opinion issued in February, the California Court of Appeals ruled in favor of CPM's client on an important issue under the California False Claims Act. At issue was the intersection of the False Claims Act's sealing provisions and California's unique "5-year rule," which requires cases to be brought to trial within five years of filing. The Court of Appeals had never addressed the issue of whether the 5-year clock continues to run during the seal period. In a huge victory for whistleblowers, the Court of Appeals definitively ruled that the 5-year clock does not run while the case is sealed. A contrary ruling would have caused immediate dismissal of dozens of pending CFCA and CIFPA cases around the state. The appeal was handled by **CPM** Santa Monica-based attorneys **Carlos Urzua** and **Theresa Vitale**.

## MILK QUOTA LITIGATION UPDATE



**CPM** represents California family owned dairies in multiple lawsuits designed to wipe out the value of Milk Quota, a significant asset. After trial court victories, the CPM team of **Niall McCarthy** and **Andrew Kirtley** have now prevailed in the Appellate Courts restoring \$500 million worth of Quota value to farmers.

## OROVILLE DAM RESOLUTION



**CPM** represented farmers in Butte and Sacramento counties whose crops and trees were destroyed by water releases caused by the February 2017 Oroville Dam Spillway failure. After trial, the **CPM** team of **Niall McCarthy** and **Jeanette Sanchez** procured a \$16.4 million recovery for nut farmers in Northern California. The multi-year litigation is now complete.

# CONSUMER CASES UPDATE

## THE BATTLE AGAINST STATE FARM UNLAWFUL COVERAGE PRACTICES

CPM filed an insurance class action lawsuit against State Farm, the largest property insurer in California, for allegedly taking small deductions from an enormous number of benefits payments to its California policyholders in violation of California law. While each deduction is small and buried in complex calculations in paperwork that many policyholders never receive or (if they do) cannot make sense of, the complaint alleges these deductions add up to many millions of dollars in benefits every year, which State Farm is obligated to pay its policyholders but instead unlawfully keeps for itself. The lawsuit seeks to represent a class of all State Farm policyholders who have been subjected to the practice and asks the Court to order State Farm to stop this hidden practice and to pay policyholders the money they are owed. The case is being handled by **Frank Pitre, Nabilah Hossain, Andrew Kirtley, Andrew Britton**, and team.



## LAWSUIT FILED AGAINST TESLA FOR MISLEADING THE PUBLIC ABOUT TESLA'S AUTOPILOT/FULL SELF-DRIVING TECHNOLOGY



CPM filed a class action lawsuit against auto maker Tesla, Inc. for allegedly misleading the public regarding its Autopilot, Enhanced Autopilot, and Full Self-Driving Capability ("FSD") technology, on behalf of a class of all consumers who have purchased a Tesla car with this technology since 2016. The lawsuit alleges Tesla and its CEO Elon Musk have spent years making false and deceptive claims about how this technology makes its vehicles "self-driving" and "autonomous," or that the allegedly self-driving technology is just around the corner. Many consumers allegedly believed these claims and paid Tesla many thousands of dollars to add Enhanced Autopilot and FSD to their cars, but have yet to receive anything remotely approaching the "self-driving" car they were promised. In March 2023, following a nationwide recall of Tesla's FSD technology and a series of fatal crashes, CPM filed a motion for preliminary injunction asking the Court to require Tesla to change the FSD name, remedy known FSD defects, and notify all FSD owners of the recall and that the technology does not make cars self-driving, among other relief. That motion is currently pending before the Court. The case is being handled by **Frank Pitre, Julie Fieber, Nabilah Hossain, Andrew Kirtley** and team.

## PITRE LEADS ABOTA TO THE DEFENSE OF JUDICIAL INDEPENDENCE



As President of CAL ABOTA, **Frank Pitre** leads an effort to publicly address the misguided efforts of some to misuse the recall process in order to voice disagreement with the decision of a Judge exercising his or her judicial discretion. On February 27, 2023, a letter authored by the Officers of CAL ABOTA was published as a full page editorial in the LA Times Inland Empire Edition highlighting the threat to Judicial Independence posed by misuse of the recall process. The letter is a part of a more significant effort by CAL ABOTA to limit the recall of any Judge unless that Judge has been convicted of a crime or engaged in serious ethical misconduct. To do otherwise threatens the Constitutional foundation of our democracy.



California and Hawaii Chapters of the American Board of Trial Advocates

### MISUSE OF THE RECALL PROCESS POSES A THREAT TO JUDICIAL INDEPENDENCE



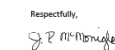

February 27, 2023

CAL-ABOTA vigorously opposes the misuse of the recall process as the basis for petitioning to recall Judge Cara Hutson. The recall process should not be weaponized to voice disagreement with the decision of any Judge in exercising her or his judicial discretion within the bounds of the law. The remedies for contesting a Judge's decision are provided through the process of appeal or reconsideration - not recall. Misuse of the recall process as retribution for a decision someone disagrees with, but comports with legal standards, undermines the fair and impartial administration of justice for all citizens.

Today, CAL-ABOTA rises to the defense of Judge Hutson, who is the unfair target of a recall effort based on misleading facts which were previously addressed by a letter of support on behalf of the San Bernardino/Riverside Chapter of ABOTA. That letter can be found on our website at <https://calabota.org/2023/02/27/letter-of-support-for-judge-cara-hutson/>. CAL-ABOTA has since learned of efforts to fund and launch the gathering of signatures in support of a petition to recall Judge Hutson, which appears to be politically motivated. Such efforts create a dangerous precedent in creating unnecessary fear and intimidation for Judges in reaching decisions based on the good faith application of law to the facts. Rather, such efforts encourage politicians that ignore the law in order to avoid the threat of being recalled by a vocal minority who seek to promote their own selfish agenda.

CAL-ABOTA wishes to underscore their belief that the First Amendment guarantees the Right of Free Speech, including opinions that are critical of a Judge's decision. However, CAL-ABOTA strongly opposes the misuse of the recall process as a tactical weapon to punish a Judge by seeking to removing them from office, when that Judge has neither been convicted of a crime or engaged in serious ethical misconduct and where the remedies of an appellate review or reconsideration are the appropriate procedures to challenge the decision. To do otherwise jeopardizes public confidence in the independence of the judiciary and threatens to destroy the Constitutional basis of our democracy.

CAL-ABOTA is an organization of the nine independent Chapters of ABOTA in California and Hawaii comprised of over 1500 Plaintiff and Defense Trial Lawyers who are elected to membership by their peers based on demonstrated trial experience, skill in advocacy and commitment to civility in the legal profession. ABOTA was founded in 1958 to preserve and defend the rights granted to all Americans by the 7th Amendment to the Constitution. Among the key missions of ABOTA is advancing public education about our civil justice system and safeguarding judicial independence.

Respectfully,  
  
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# BUSINESS FRAUD & ANTITRUST UPDATE



## COURT APPROVES CPM'S \$52.5 MILLION SETTLEMENT WITH JBS IN BEEF ANTITRUST CASE

The District Court for the District of Minnesota approved CPM's \$52.5 million settlement with JBS - one of the defendants in this antitrust litigation against beef packers. CPM, along with co-counsel, were appointed by the District Court to represent a class of direct purchaser plaintiffs that bought beef at artificially inflated prices due to defendants' alleged conspiracy to drive up beef prices. This litigation is being handled by **Adam Zapala, Elizabeth Castillo, Alexander Barnett, James Dallal, Gayatri Raghunandan** and team.



## CPM'S ANTITRUST CASE AGAINST GOOGLE PROCEEDS

The Court recently heard argument and testimony in a monopolization case against Google regarding its sale of apps on Google Play Store. The District Court appointed CPM to the Plaintiffs' Steering Committee on behalf of plaintiffs who purchased and paid Google for a class of apps through the Google Play Store. Consumers are alleged to have overpaid or otherwise suffered economic losses due to Google's monopolization of the app market. The Court granted Plaintiffs' class certification motion in November 2022. **Nanci Nishimura** is on the steering committee, and has been handling the case with **Joe Cotchett, Adam Zapala, Elizabeth Castillo, Karin Swope, James Dallal** and team.

## JOHN DEERE SUED ON BEHALF OF NATION'S FARMERS - CPM APPOINTED CO-LEAD COUNSEL IN GROUND BREAKING LITIGATION-



CPM was appointed by the Court in the Northern District of Illinois to lead a ground-breaking and cutting edge antitrust case regarding farmers' "right to repair" their John Deere agricultural equipment. Drawing on their strong self-reliance, farmers traditionally repaired their agricultural equipment themselves. As agricultural equipment became more complex and computerized, Plaintiffs allege that Deere locked farmers out of their ability to repair such equipment by requiring many repairs to be cleared by

Deere-affiliated dealers. Plaintiffs also allege that Deere is attempting to monopolize the repair services market for which Deere reaps substantial revenue. As a result of Deere's conduct, Plaintiffs allege that farmers have overpaid for repair services for their Deere agricultural equipment with ECUs. This litigation is being handled by **Adam Zapala, Elizabeth Castillo, Alex Barnett, James Dallal**, and team.

## THE COURT CERTIFIES A LITIGATION CLASS AND CPM SEPARATELY OBTAINS FINAL APPROVAL OF \$104 MILLION IN SETTLEMENTS FOR CHICKEN PRICE-FIXING



In a major victory, the District Court for the N.D. of Illinois certified a class of commercial and institutional indirect purchaser plaintiffs ("CIIPPs") for litigation purposes against many of the nation's chicken processors permitting the class to move forward to trial. The Court of Appeals for the Seventh Circuit denied Defendants' request to appeal the District Court's decision certifying the class. Adam Zapala for CPM handled witness examinations and closing arguments during the proceedings for the CIIPPs. Separately, the District Court approved \$104 million in settlements on behalf of a class of restaurants and commercial food preparers represented by CPM in the long-running litigation. This case is handled by **Adam Zapala, Alexander Barnett, James Dallal** and team.

## THE QUALCOMM LITIGATION MOVES FORWARD

In January 2023, the Court denied Qualcomm's Motion to Dismiss regarding Plaintiffs' Cartwright Act claim as to Plaintiffs' exclusive dealing theory and Plaintiffs' derivative UCL claim. CPM represents consumers in a lawsuit against Qualcomm for its alleged anticompetitive practices, including its acquisition and maintenance of a monopoly in the market for modem chips and its coercive exclusive dealing agreements, enabling Qualcomm to maintain a dominant market position, inhibit competitors, and artificially inflate the prices of cellular devices sold to consumers. The case is being handled by **CPM's Joe Cotchett, Adam Zapala, James Dallal, Brian Danitz, Andrew Kirtley** and team.

## CPM AND TEAM REACH HISTORIC SETTLEMENT IN SALMON ANTITRUST LITIGATION



CPM and their co-counsel have reached a historic class-wide settlement of \$33 million with the Defendants on behalf of indirect purchasers of North Atlantic Farm-Raised Salmon, which was approved by the Court in February 2023. Plaintiffs alleged that Defendants—some of the largest companies engaged in North Atlantic Farm-Raised Salmon—conspired to increase the prices of salmon. The case is being handled by **Adam Zapala, James Dallal** and team.

# STOCK FRAUD & SECURITIES ACTIONS UPDATE

## TWITTER SHAREHOLDERS FILE SUIT ALLEGING ELON MUSK'S CONDUCT DEFLATED TWITTER'S STOCK IN ATTEMPTED BUYOUT OF COMPANY



**CPM** and Bottini filed suit in the U.S. District Court for the Northern District of California on behalf of Twitter shareholders against Elon Musk for manipulating the market for Twitter stock. As alleged, after first agreeing to buy Twitter for \$54.20 per share on April 25, 2022, Musk began denigrating Twitter and then tried to renegotiate the deal. As alleged, Musk's false statements and tweets delayed closing and resulted in lost interest on the share proceeds. The lawsuit seeks remediation for the shareholders who suffered the harm done. The case is being handled by **Joe Cotchett, Mark Molumphy, Tyson Redenbarger** and team.

## SETTLEMENT REACHED IN MICRO FOCUS SHAREHOLDERS LAWSUIT



**CPM** serves as co-lead counsel on behalf of a certified class of investors in the merger between Micro Focus and a subsidiary of Hewlett Packard Enterprise. The parties reached a \$107 million settlement for a nationwide class, which is pending final approval. **CPM** alleges Micro Focus made false statements and failed to disclose material information about the merger. The case is being handled by **Mark Molumphy, Tyson Redenbarger** and team.

## HISTORIC PRIVACY SETTLEMENT FOR ZOOM APP USERS NATIONWIDE



The District Court for the Northern District of California granted final approval of a ground-breaking settlement on behalf of a nationwide class action of Zoom users and subscribers. Zoom will pay \$85 million in cash compensation and agreed to implement comprehensive reforms to its business practices. The class action alleged that Zoom failed to provide end-to-end encryption of Zoom meetings, improperly shared user information, and left many exposed to "Zoombombing" by unauthorized third parties. The case included application of Section 230 of the Communication Decency Act and alleged violation of privacy and unfair competition laws in California, where Zoom is based. The case is handled by **CPM's Mark Molumphy, Joe Cotchett, Tyson Redenbarger** and team.

## CPM OBTAINS MORE FOR INVESTORS IN EVENTBRITE PUBLIC OFFERING CASE



**CPM** serves as co-lead counsel for IPO investors in Eventbrite, an event ticketing company, in litigation pending in San Mateo County Superior Court. After learning of Eventbrite's attempt to negotiate a settlement agreement with other investors resolving claims of all class members for a paltry amount, **CPM** intervened and successfully petitioned the federal court to reject the settlement. In California state court, **CPM** then defeated motions to dismiss, obtained discovery and, with trial approaching, negotiated a new settlement for \$19.25 million, an amount ten times higher than the prior deal. The historic settlement recently received final approval from the court and will be distributed in 2023. The case is being handled by **Mark Molumphy, Tyson Redenbarger, Elle Lewis** and team.



## MOLUMPHY NAMED TO TOP 100

**CPM's Mark Molumphy** was included in Super Lawyer's list of the Top 100 Lawyers in Northern California, The National Trial Lawyers Top 100, Irish Legal 100, and Lawdragon's 500 Leading Plaintiff Financial Lawyers. He was also ranked by both Chambers USA and Benchmark, and currently serves on the leadership team of the Federal Bar Association's Securities Law Section and the Board of the Association of Business Trial Lawyers, where he edits the ABTL Report.



## ENVIRONMENTAL & POLLUTION UPDATE

### CPM CONTINUES THE FIGHT DEFENDING THE SAN LUIS DRAIN FOR VIOLATING THE CLEAN WATER ACT



In February 2023, the Eastern District of California granted summary judgment in favor of Defendants San Luis & Delta-Mendota Water Authority ("SLDMWA"), the Bureau of Reclamation, and the Grassland Water District in a citizen suit filed by a group consisting of various fishing associations and Friends of the River. **CPM** has defended SLDMWA since November 2011 in the suit, which alleged that SLDMWA's operation of the San Luis Drain in California's Central Valley violated the Clean Water Act. The Drain is a water project that collects water used to irrigate agricultural land through an underground capture system, and then moves the collected drainage water through a concrete-lined conveyance for many miles before it dispenses into Mud Slough. Plaintiffs alleged that Drain discharged pollutants without complying with the permit requirements under the National Pollutant Discharge Elimination System ("NPDES"). **CPM** and attorneys for the other defendants successfully argued that there were all discharges through the Drain were either agricultural or nonpoint sources, none of which are subject to NPDES permit requirements. Notably, the district court further found that the term "discharges" meant a point source and would not include nonpoint sources of pollutants. **CPM's** team is lead by **Julie Fieber, Joe Cotchett** and team.

### CPM CONTINUES ITS LONG-RUNNING FRESNO WATER CASE OVER CORROSION AND DAMAGE TO PIPING



**CPM** continues its long-running battle with the City of Fresno over the City's negligent operation of a water treatment plant. **CPM** has alleged the City failed to maintain water quality characteristics within an established range as the result of mixing ground water and surface water sources, which resulted in corrosion and damage to the galvanized pipes in well over a thousand residents' homes. This case was certified as a class action in July 2021. In June 2022, the City moved for summary judgment on the homeowners' claims. That motion was granted in October 2022 based upon the Court finding, incorrectly **CPM** contends, that corrosion of residential plumbing that resulted in measured exceedances of limits on lead as well as elevated levels of other contaminants, did not implicate health and safety. **CPM** is preparing to appeal that order. We expect the appeal to be heard in early 2024. If the homeowners prevail, this case will proceed to trial in April 2023. **CPM's** team is lead by **Frank Pitre, Julie Fieber** and team.



### LAWSUIT AGAINST MANUFACTURERS OF PLASTIC CONSUMER GOODS MOVES FORWARD

Earth Island Institute, represented by **CPM**, is actively proceeding against 10 major plastic consumer goods companies for the nuisance allegedly created by their plastic packaging, including polluting California waterways with plastic trash and touting products as recyclable when they're not. The case is now entering the discovery phase where Plaintiff will collect evidence in preparation for trial. The case is handled by **CPM's Mark Molumphy, Joe Cotchett, Tyson Redenbarger** and team.

## EMPLOYMENT CASE UPDATE

### First Transgender Lutheran Bishop Files Lawsuit Against the Evangelical Lutheran Church in America and the Sierra Pacific Synod for Harassment, Defamation, and Whistleblowing



**CPM** represents Rev. Dr. Megan Rohrer, the first openly transgender Bishop of the country's largest Lutheran denomination, who alleges he was harassed on the basis of his sexual orientation and gender identity, defamed by the Church, and ultimately pushed out of his position as Bishop. He also alleges he was terminated for blowing the whistle on the Church's violations of California labor laws. The case was filed in the Northern District of California against the Evangelical Lutheran Church in America and the Sierra Pacific Synod, a division of the Evangelical Church in America covering the geographical area of Northern California and parts of Nevada. The Rev. Dr. Megan Rohrer was elected to the position of Bishop in an historic election during the 2021 Synod Assembly. Of over 400 people (and more than 60 percent non-clergy members) from across the Synod's congregations, Rohrer received 209 votes to become Bishop. The case being handled by **Tamarah Prevost, David Hollenberg** and team.

# CALIFORNIA WILDFIRE CASE UPDATES

## LAWSUIT FILED AGAINST ROSEBURG FOREST PRODUCTS CO. OVER THE START OF THE MILL FIRE



CPM filed a lawsuit against Roseburg Forest Products Co. in San Francisco County Superior Court arising out of the Mill Fire which began on September 2, 2022. The lawsuit was filed on behalf of Robert Davies, a 61 year old disabled widower, who lost his home of over 30 years and all of its contents. The Mill Fire tore through Siskiyou County for 11 days, burned 3,935 acres, destroyed 118 structures, injured three people, and killed two people. Roseburg Forest Products Co. creates wood veneer and also generates electricity at an on-site Biomass Plant. Roseburg uses the electricity to power the facility but also transfers the electricity generated onsite into Siskiyou County's electrical grid for public use. The Biomass Plant creates electricity by burning wood, which creates a hot ash byproduct. The hot ash was stored in "Shed 17," which the complaint alleges was about 100 years old. The hot ash, if not properly cooled or treated, poses a risk of fire ignition. It is alleged that the hot ash from the Biomass Plant frequently caused unreported fires at the facility. Roseburg had installed a fire suppression system, but it did not function as intended. It is alleged in the complaint that instead of fixing the system, Roseburg depended on employees promptly reacting to extinguish the fires – rather than spending the money necessary to design and maintain an effective fire suppression system. The lawsuit alleges the Mill Fire was the result of Roseburg's deliberate failure to avoid known risks of fire ignition associated with the industrial processes conducted at its mill. The case is being handled by **Frank Pitre, Duffy Magilligan, Nabilah Hossain, Andrew Britton** and team.

## CPM PREPARES FOR TRIAL IN DIXIE FIRE AGAINST PG&E - PLUMAS COUNTY -



CPM's **Frank Pitre, Nabilah Hossain, Duffy Magilligan** and **Andrew Britton** are leading the trial team in preparation for the first Dixie Fire jury trial scheduled for November 6, 2023 in San Francisco. The Dixie

Fire began on July 13, 2021 when a previously-damaged and decaying Douglas Fir pine tree fell and landed on the PG&E electric distribution lines below. The tree laid on the high-voltage line for more than ten hours before it burst into flames. By the time PG&E discovered the tree, the surrounding brush had ignited and the fire was burning out of control. The fire became the largest single wildfire in California history, which burned for 104 days across 960,000 acres. The fire damaged or destroyed over 1,400 structures and displaced thousands of victims in Butte, Plumas, Shasta, Lassen, and Tehama Counties. CPM has developed evidence proving PG&E's liability under theories including negligence, inverse condemnation, trespass, and nuisance.

## CPM REPRESENTING VICTIMS OF THE MCKINNEY FIRE - SISKIYOU COUNTY -



**Joe Cotchett** and **Frank Pitre** are leading the investigation into 2022's McKinney Fire, which began on July 29, 2022 in Siskiyou County. The McKinney fire was ignited when vegetation contacted high-voltage electric distribution lines

owned and operated by PacifiCorp, an electric utility serving residents of Northern California. The McKinney Fire caused the deaths of four people, injured many others, burned over 60,000 acres, and destroyed 185 structures, including approximately 90 homes in Siskiyou County. CPM is leading the effort to hold PacifiCorp, accountable for the negligent inspections and maintenance of their electric distribution infrastructure. The case is being handled by **CPM** attorneys **Duffy Magilligan, Nabilah Hossain, Andrew Britton** and team.



## CPM SECURING SETTLEMENTS WITH FIRE VICTIM TRUST - NORTH BAY AND CAMP FIRES -

Following PG&E's 2019 bankruptcy, CPM helped hundreds of families file claims with the Fire Victim Trust, the \$13.5 Billion fund set up to compensate victims of the North Bay and Camp Fires. The North Bay Fires include 22 fires caused by PG&E's equipment in Sonoma, Napa, and Lake Counties on October 8, 2017. The Camp Fire, which ignited the following year, destroyed the town of Paradise and took the lives of 85 individuals. PG&E declared bankruptcy three months later. Victims of those fires represented by CPM have approved settlements totaling approximately \$200 million. The settlements are being negotiated by CPM's wildfire team, including **Frank Pitre, Duffy Magilligan, Julie Fieber, Nabilah Hossain** and **Andrew Britton**.



## - WELCOMING CPM'S NEW ASSOCIATES -



### OWAIS BARI

#### *Senior Associate in the Burlingame Office*

Owais received his LLB (Bachelor of Laws) from **University of London** with two Rolls of Honor for academic excellence. After graduating he practiced civil and criminal litigation in Pakistan for 5 years before leaving for the U.S. in pursuit of a Master of Laws (LLM) degree in civil and criminal trial practice. He received an LLM from the **University of California, Berkeley School of Law** in civil and criminal trial practice. Prior to joining CPM, he was a litigator with boutique firms in San Francisco with a generalist practice including matters involving employment law, commercial and business disputes, family law, personal injury, and class action. He represented a diverse array of plaintiff and defense clients. Owais specializes in commercial litigation, consumer protection class actions, elder abuse, false claims/whistleblower law, and personal injury & wrongful death.



### ELISE BONINE

#### *Associate in the Burlingame Office*

Elise received her B.A. from **Tulsa University** and her J.D. with a concentration in international and comparative law from **Columbia Law School**. During law school she interned for the Mechanism for International Criminal Tribunals in the Hague, Netherlands where she worked with the prosecutorial team to appeal the verdict in the Stanišić & Simatović case and set new precedent in the field of International Criminal Law. Upon her return to the United States, she represented detained immigrants awaiting final decisions on their asylum claims in an externship with the Legal Aid Society. Elise later joined the Columbia Mediation Clinic where she mediated a wide variety of issues from housing issues to alleged violations of the Equal Employment Opportunities Act, as well as prepared and conducted trainings for members of the United Nations and Judicial Ethics Committees, and supervised and trained other mediators. She also served as a staff editor on the Columbia Journal for Transnational Law. Elise specializes in defective products/mass torts and elder abuse.



### GALEN CHENEY

#### *Associate in the Seattle Office*

Galen received his B.A. from **Washington University** and his J.D. from **Seattle University School of Law** where he was an Associate Editor on the Seattle University Law Review. Galen has volunteered for the Innocence Project Northwest through Amazon Legal Pro Bono, the King County Bar Association Neighborhood Legal Clinic, and the VA Puget Sound. Prior to obtaining his law degree, he worked as a financial examiner enforcing state and federal consumer financial protection and anti-money laundering laws and regulations. Galen later worked as a cybersecurity and privacy program manager at a leading cloud services technology company, delivering security and compliance with NIST, PCI DSS, NERC, ISO, SOC, HIPAA, HITRUST, GDPR, and others. He was selected by the U.S. Department of Justice for both the Attorney General's Honors Program and the Summer Law Intern Program (SLIP). Galen specializes in consumer protection, cybersecurity, privacy, antitrust, securities, fraud, white collar litigation, and intellectual property.



### GIA JUNG

#### *Associate in the Burlingame Office*

Gia received her J.D. from **University of California, Berkeley School of Law**, with a certificate in IP & Technology Law. During law school, Gia was active as a student advisor for the Law and Technology Writing Workshop. Prior to law school, Gia graduated with highest honors from **University of California, Santa Barbara**, where she received a B.A. in English and a minor in Labor Studies. Before joining CPM, Gia worked at a large law firm in San Francisco, representing clients in commercial litigation, consumer class actions, and trade secret matters. She specializes in complex commercial litigation and class actions.



### GRACE PARK

#### *Of Counsel in the Santa Monica Office*

Grace received her B.A. and M.A. from **Stanford University** and her J.D. from **Stanford Law School** where she served as Articles Editor of the Stanford Law Review, and she clerked for U.S. District Judge Fernando M. Olguin of the Central District of California. She developed her civil investigation and litigation skills from multiple vantage points, representing both plaintiffs and defendants at Big Law, a boutique law firm, and the federal government. Park also investigated and litigated what were, at the time, novel issues ranging from regulation of pre-IPO employee stock options transactions, civil and criminal liability arising from the first bank to fail under the Troubled Asset Relief Program, and administrative review under the Medicare Act. She specializes in False Claims Act Litigation, California Insurance Fraud Prevention Act, commercial litigation, employment law and false claims/whistleblower law.

# HONORS FOR CPM ATTORNEYS



## CPM RECOGNIZED BY U.S. NEWS AGAIN AS ONE OF THE BEST LAW FIRM

CPM is pleased to announce that it has once again been nationally recognized by U.S. News – Best Lawyers as a **"Best Law Firm"** for 2023. The U.S. News - Best Lawyers "Best Law Firms" rankings are based on a rigorous evaluation process that includes the collection of client and lawyer evaluations, peer review from leading attorneys in the field.

## MCCARTHY TO RECEIVE PRESTIGIOUS CAOC AWARD

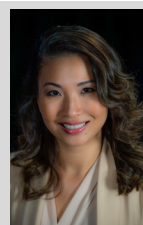


At the 2022 CAOC Installation & Awards Dinner, **Niall McCarthy** was presented with the **Edward I. Pollock Award**. The award is given in recognition of many years of dedication, outstanding efforts and effectiveness on behalf of the causes and ideals of the Plaintiffs' bar.



## ANIMAL LEGAL DEFENSE FUND HONORS CPM PRO BONO AWARD

The **Animal Legal Defense Fund** honored CPM with the 2022 Advancement in Animal Law Pro Bono Achievement Award in Portland, Oregon. The award recognized CPM's outstanding contribution of pro bono hours and dedication to protect the lives and advance the interests of animals through the legal system. CPM's **Gary Praglin** gratefully accepted the award as he is representing multiple parties against online puppy traffickers who have harmed defenseless animals and devastated innocent families and is the voice for animals harmed by pet groomers.



## ELIZABETH CASTILLO NAMED ONE OF THE TOP ANTITRUST ATTORNEYS IN CALIFORNIA

CPM partner **Elizabeth Castillo** has been named among the *Daily Journal's* 2022 **"Top Antitrust Attorneys."** The list features the publication's selection of the top 25 antitrust lawyers practicing in California. **Joe Cotchett** and **Adam Zapala** were also previously named to the list.



## JUSTIN BERGER SELECTED TO 25 TOP HEALTH CARE LAWYERS LIST

**Justin Berger** was named to the San Francisco and Los Angeles *Daily Journal's* list of the "Top Health Care Lawyers" in California for 2022. Each year, the *Daily Journal* uses this list to honor the best 25 lawyers in the state.

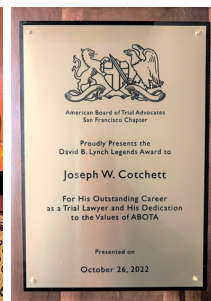


## ANNE MARIE MURPHY ELECTED TREASURY OF CAOC

CPM's **Anne Marie Murphy** was elected Treasurer of Consumer Attorneys of California (CAOC). Murphy has served on CAOC's board for twelve years and is past Chair of CAOC's Women's Caucus and has served as the organization's Financial Secretary and Parliamentarian. She Chaired the CAOC Sonoma Seminar and Co-Chaired the CAOC Convention. Murphy received a Presidential Award of Merit in 2022 for her work on diversity, equity and inclusion.

## JOE COTCHETT HONORED WITH DISTINGUISHED AWARDS

In January, **Joe Cotchett** was named one of the top attorneys selected to the *Daily Journal's* **Top Leading Commercial Litigators** in California for 2023. This is the *Daily Journal's* inaugural list of attorneys who lead major litigation in California and nationally. The American Board of Trial Advocates San Francisco Chapter proudly presented the **David B. Lynch Legends Award** to Cotchett for his outstanding career as a trial lawyer and his dedication to the values of ABOTA.



## CPM RANKED ONE OF THE TOP SECURITIES LAW FIRMS NATIONWIDE BY INSTITUTIONAL SHAREHOLDER SERVICES



On February 28, 2023, Institutional Shareholder Services SCAS released its annual SCAS "Top 50" report, ranking the nation's top securities class action law firms based on their recoveries for investors during 2022. For the third time in the past five years, CPM was ranked amongst the nation's elite securities firms by ISS, which highlighted CPM's multi-million dollar recovery for shareholders in 2022. ISS had previously ranked CPM in the Top 10 of all securities firms nationwide in 2018 and 2019.



## NISHIMURA APPOINTED TO SMITHSONIAN BOARD

CPM's **Nanci Nishimura** has been appointed to the Smithsonian Institution's national Advisory Board for its Traveling Exhibitions Services (SITES). SITES oversees Smithsonian exhibits at museums, libraries, science centers, historical sites, cultural and educational institutions nationwide. Appointed by the Board of Regents, Advisory Board members are corporate leaders, and accomplished individuals. Nishimura is expanding her commitment to education with the California Science Center, Japanese American National Museum (both Smithsonian affiliates), Asian Art Museum, and the White House as co-chair of **Leaders Forum**.



# COMMUNITY COMMITMENT

## SUPPORTING OUR LOCAL ANIMAL SHELTERS



Each year, **CPM** sponsors the Peninsula Humane Society & SPCA "A Home for the Holidays" Gala which raises funds for the Hope Program. The Hope Program helps the neediest animals and gives them a second chance at life. All funds raised for the Gala and auction go directly towards this program.

## CPM LAUNCHES SACK LUNCH PROJECT IN SANTA MONICA



**CPM** Santa Monica resolved to "give back" in 2023. In January, the CPM Santa Monica office assembled lunches together during the firm's lunch hour and provided nearly 80 meals to Midnight Mission in Los Angeles. This direct act of service was fun, simple and gave the team a chance to make a direct impact on our community. The project was organized by **Ashley Mason** and **Kegan Smith** of CPM Santa Monica.

## KARIN SWOPE SHAPES THE FUTURE OF LAW STUDENTS IN SEATTLE



**CPM's Karin Swope** teaches Intellectual Property at Seattle University School of Law this Spring semester. Additionally, Karin has volunteered at Treehouse, a non-profit which supports youth in foster care by providing clothing, books and other essentials and by funding school fees, extracurricular activities and summer camps in order to support high risk youth with the goal of helping them graduate from high school.

## EDUCATING THE YOUTH ON OUR JUSTICE SYSTEM ABOTA ANNUAL SERIES



**Niall McCarthy** moderated SF ABOTA's 7th Annual James Otis Lecture Series (JOLS). The JOLS was created to educate and inspire students across our nation so they will have appropriate knowledge of and respect for the U.S. Constitution. It is designed as a field trip for high school students that allows them to hear from legal professionals, historians, and other experts on relevant topics anchored in our Constitution. Justice Goodwin Liu of the California Supreme Court and Justice Teri Jackson of the California Court of Appeal were the guest speakers this year.

## NAZY FAHIMI SPEAKS ON WHISTLEBLOWERS TAXPAYERS AGAINST FRAUD



In October, attorneys from **CPM** attended the **Taxpayers Against Fraud** ("TAF") annual conference in Washington D.C. TAF is a public interest, non-profit organization dedicated to defending and empowering whistleblowers who expose fraud on the government and the financial markets. Every year, hundreds of attorneys who represent whistleblowers under the False Claims Act and other statutes attend. **Sarvenaz (Nazy) Fahimi** participated on the Declined Litigation Panel.



## CPM ATTENDS ABOTA MASTER IN TRIAL SERIES

The American Board of Trial Advocates - San Francisco Chapter held their Master in Trial series at the Milton Marks Auditorium in S.F. The series allowed attendees to see leading attorneys present a full trial, or in-depth portions of one, in one day, complete with jury participation and deliberations. CPM's Associates found the program to be a valuable lesson to help them on their next trial.



## NIALL MCCARTHY SPEAKS AT LEGAL ASSISTANCE FOR SENIORS

In October, **CPM's Niall McCarthy** spoke at the Legal Assistance for Seniors event on holding financial institutions accountable for financial elder abuse. With the growing number of elders getting scammed, McCarthy discussed fact patterns, red flags and holding institutions accountable for preying on the elderly. **Niall McCarthy** also attended his 30-year reunion at Santa Clara University School of Law. He stands in front of a classroom in honor of Niall and Yvonne McCarthy for their support over the years.

## CPM EVENTS



**CPM** represented the Robert Young Winery in the Kincade Fire case. Attorneys and staff were invited to celebrate the conclusion of the case at the beautiful winery with the Young family.

### WOMEN'S HEALTH LUNCHEON

**CPM** staff attended the Annual Mills Peninsula Hospital Foundation - Women's Health Luncheon & Lecture event at the beautiful Filoli Historic House and Garden in Woodside, California. This event raises money to ensure access to vital programs and services for women's health.



### BLACK HISTORY MONTH



To celebrate Black History Month, **CPM** treated employees to some of the world's finest espresso-based coffee served by a Black-owned local business - Sextant Coffee Roasters.

**CPM** staff attended a beautiful ABOTA SF Chapter Judges Appreciation Reception in the San Mateo County History Museum. There they honored the 2022 Trial Judges of the Year - Hon. Robert D. Foiles and Hon. Beth Labson Freeman.



**CPM's Mark Molumphy** (Bay Scholars Board Member) and staff at the Bay Scholar's Giving Thanks by Giving Back Luncheon. Bay Scholars has financially and personally supported Bay Area families that cannot afford the high school education for their children.

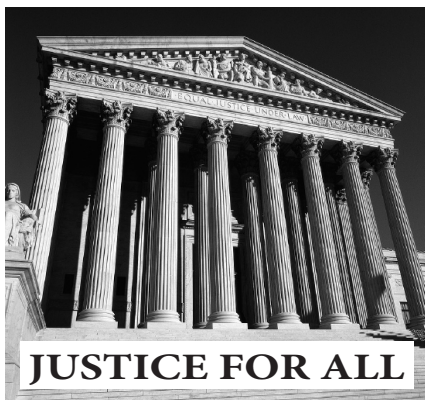


In November, in support of Student Associate, **Carlos Gonzalez**, **Melissa Bressick** and **Mallory Soto** of the **CPM** Santa Monica Office attended Verbum Dei High School's Corporate Work Study Program Appreciation Breakfast, celebrating the organization's 20 years of bringing together work-study partners like CPM and their students.

## 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)