

Stuart Plunkett

Partner

+1 415 243 1057

stuart.plunkett@alston.com

San Francisco | 560 Mission Street, Suite 2100 | San Francisco, CA 94105-0912



Stuart Plunkett is a seasoned trial lawyer with more than 27 years' experience defending companies in complex antitrust and commercial litigation matters across industries. Stuart has defended companies against federal antitrust claims and claims under California's unique competition and consumer protection statutes.

Stuart has significant experience representing companies in high-stakes commercial disputes and class actions in a variety of disciplines, including consumer, securities fraud, and financial services class actions; international arbitrations; and general commercial disputes. Stuart has defended companies at trial in bet-the-company litigation.

Stuart has demonstrated thought leadership in his field, regularly speaking and writing on competition and litigation issues. Stuart currently serves in ABA leadership on the Antitrust Section's Competition Torts Committee. Stuart served as an author and editor of the ABA's *Antitrust Law Developments* and *California Antitrust and Unfair Competition Law*, and his perspectives have been quoted in numerous publications.

Stuart served as the 107th president of the Bar Association of San Francisco. He is past chair of its Judiciary Committee and Antitrust Section. Stuart has also been deeply involved in pro bono matters and has received the Wiley W. Manuel Award for Pro Bono Legal Services on three occasions.

Stuart clerked on the Seventh Circuit Court of Appeals for the Hon. Walter J. Cummings and was the editor-in-chief of the *Northwestern University Law Review*.

Representative Experience

Antitrust Litigation & Counseling

- Lead counsel for a large Chinese electronics manufacturer in multidistrict antitrust litigation based on alleged cartel activity in the global CRT market. *In re Cathode Ray Tube (CRT) Antitrust Litigation*.
- Lead counsel for Humana in antitrust litigation in San Francisco California Superior Court alleging conspiracy among insurers to fix network reimbursement payments to U.S. health care providers. *VHS Liquidating Trust v. Multiplan Corp.*
- Lead counsel for a large dental products manufacturer and sales company in achieving complete dismissal of indirect purchaser class actions in California and Illinois. *Kramer v. Henry Schein Inc., et al.* and *Hatchett v. Henry Schein Inc., et al.*
- Lead counsel for restaurant owners in an antitrust class, obtaining complete dismissal of an action alleging price fixing in "no tipping" policies. *Brown vs. 140 NM LLC, et al.*
- Lead counsel for patent holders accused of price fixing, monopolization, unfair competition, and breach of contract in the licensing of cellular technologies. *Apple v. Nokia, et al.*
- Lead counsel for an electronics manufacturer in multidistrict litigation arising out of an alleged price-fixing cartel. *In re Optical Disc Drive Antitrust Litigation*.

- Lead counsel for a mortgage services company pursuing claims against a competitor for monopolization and unfair competition. *DocMagic Inc. v. Ellie Mae Inc.*
- Lead counsel for a Japanese manufacturer of LCD panels in multidistrict and related state-court litigation arising out of an alleged price-fixing cartel. *In re TFT-LCD (Flat Panel) Antitrust Litigation.*
- Lead counsel for a major pharmacy benefit manager in multidistrict antitrust litigation involving price-fixing and unfair competition claims. *In re Lipitor Antitrust Litigation.*
- Lead counsel for a national shipping company in antitrust litigation alleging unlawful coordination with a competitor. *AFMS LLC v. UPS and FedEx Corp.*
- Lead counsel for a major financial institution in complex antitrust cases alleging price fixing in payment card fees. *In re Payment Card Interchange Fee and Merchant Discount Antitrust Litigation.*
- Lead counsel for a major financial institution in an antitrust and consumer fraud class action involving bank fees. *In re Late Fee and Over-Limit Fee Litigation.*
- Lead counsel for a chipmaker in multidistrict litigation arising out of alleged cartel activity. *In re SRAM Antitrust Litigation.*
- Lead counsel for a large tableware manufacturer in a case alleging a group boycott of retailer Bed Bath & Beyond. *In re Tableware Antitrust Litigation.*
- Lead counsel for a large energy producer, transporter, and trading company in multiple lawsuits in federal and state courts alleging antitrust claims arising out of the California energy crisis. *Phelps Dodge v. El Paso Corp., In re California Retail Natural Gas and Electricity Antitrust Litigation, Public Utilities Commission of California v. El Paso Natural Gas Co.* (FERC proceeding), *Nevada Power v. El Paso Corp.*, and *Sierra Pacific Resources v. El Paso Corp.*
- Lead counsel for an Internet services company pursuing monopolization claims for “.com” and “.net” registries. *CFIT v. Verisign Inc.*
- Lead counsel for a paper manufacturer in multidistrict litigation alleging a price-fixing conspiracy among manufacturers. *In re Publication Paper Antitrust Litigation.*
- Lead counsel for a medical device company accused of violating antitrust laws through the enforcement of a patent portfolio against a competitor. *Medtronic Inc. v. Estech Inc.*
- Advised a major wireless telecommunications provider seeking regulatory clearance for a proposed merger.

Other Class Action and Commercial Litigation

- Defending a leading public cybersecurity company against fraud and contract claims in AAA Arbitration. *DFND v. CrowdStrike.*
- Defending a pharmaceutical company in \$1.5 billion breach of contract ICC arbitration.
- Defending a large national reseller in the N.D. Cal. regarding claims of false advertising and consumer fraud. *Chaplin v. Walmart.*
- Defending a leading provider of retirement plan services in Alameda County Superior Court against claims of professional negligence, actuarial malpractice, and breach of contract. *Sheet Metal Workers Pension Plan of Northern California v. NWPS Holdings, Inc.*
- Defending a large national retailer in a class action pending in federal court in California alleging unfair competition and other consumer claims arising out of COVID-19 policies. *Hubmer v. Walmart.*

- Lead trial counsel for an energy sector software company in defending breach of contract and unfair competition claims in federal court in California. *Crescent Point v. Tachyus*.
- Defended a manufacturer of diet soda in a lawsuit alleging false advertising and other claims under California's consumer protection statutes. *Becerra v. Dr Pepper/Seven Up Inc.*
- Lead counsel for a large chain of fitness facilities in evaluating constitutional challenges arising out of COVID-19 restrictions.
- Defending a large national financial institution against consumer claims in California state court. *Clegg v. Wilmington Trust et al.*
- Defended a large waste collection company in California class actions alleging breach of contract and consumer fraud claims. *Eagle Canyon Owners' Association v. Waste Management*.
- Defending an automobile leasing company in fraud and breach of contract actions in California state court. *8400 Edgewater v. Fair Financial*.
- Defended a leading consumer electronics maker in numerous matters alleging false advertising, product defects, and claims under California's consumer protection statutes. *In re Apple In-App Purchase Litigation, In re Apple iPhone 4 Products Liability Litigation, In re Apple iPhone 3G Products Liability Litigation, Donohue v. Apple Inc., In re Apple and AT&T iPad Unlimited Data Plan Litigation, Patel v. Apple Inc., Van Zant v. Apple Inc., and Luxpro Corp. v. Apple Inc.*
- Represented a major university pursuing claims related to patent rights, breach of contract, and unfair competition under California law. *The Regents of the University of California v. Chen, et al.*
- Defended a large retailer against multiple consumer protection claims following a significant data breach. *In re Target Corporation Customer Data Security Breach Litigation*.
- Brought claims on behalf of landowners for RICO violations, fraud, and breach of contract in a significant business dispute with a cannabis operator. *Shulman, et al. v. Kaplan, et al.*
- Defended a large retailer against claims under the California Unruh Civil Rights Act alleging a lack of accessibility to a website. *National Federation of the Blind v. Target Corporation*.
- Defended a private mortgage insurance company against class action claims under the Fair Credit Reporting Act and related consumer fraud claims. *Glatt v. The PMI Group Inc.*
- Represented an industry leader in the credit and debit sector in a class action alleging consumer fraud and unfair business practices. *Lemacks v. Visa USA Inc.*
- Represented a leading consumer electronics manufacturer in a major intellectual property dispute with a competitor, specifically trade dress issues. *Apple Inc. v. Samsung*.
- Represented a large medical device maker in a dispute with a competitor involving trademark, trade dress, and unfair competition claims. *Novadaq v. Karl Storz*.
- Represented an international bank in a major fraudulent conveyance action in Nevada state court. *BM-Bank JSC v. Marker Craig LLC and Marker LLC*.
- Represented a wireless company in a case alleging trademark infringement and unfair competition. *Shipcom Wireless v. Catamaran*.
- Represented the federal court-appointed receiver for the California prison system's health care operations in contempt proceedings against state officials. *Plata v. Schwarzenegger*.

- Represented an international mining conglomerate in a human rights action brought under the Alien Tort Claims Act. *Sarei v. Rio Tinto*.
- Represented companies in numerous other commercial disputes in the Northern District of California. *China Fortune Land Development v. 1955 Capital Fund*, *Global Industrial Investment Ltd. v. Chung*, *McGraw v. Western Service Contract Corp.*, *Continental Automotive Systems Inc. v. Avanci LLC, et al.*, *Coalition for ICANN Transparency v. Verisign, et al.*, and *State of California v. Valero Energy Corp.*

Securities Litigation

- Defended numerous companies in high-stakes class action litigation involving allegations of securities fraud, including:
 - *In re Zynga Inc. Securities Litigation*
 - *In re JDSU Securities Litigation*
 - *Zhu v. UCBH Holdings Inc.*
 - *In re Countrywide Financial Corp. Securities Litigation*
 - *In re Cooper Companies Inc. Securities Litigation*
 - *In re Charles Schwab Corporation Securities Litigation*
 - *In re Calpine Corporation Securities Litigation*
 - *In re Providian Financial Corp. Securities Litigation*

Trial & Arbitration

- *CrowdStrike v. DFND* (AAA Arbitration, May 2022)
- *BM-Bank JSC v. Marker Craig LLC and Marker LLC* (JAMS Arbitration, Sept. 2020)
- *PPL EnergyPlus LLC, et al. v. Nazarian* (D. Md. trial)
- *Olympus Capital v. Lone Star* (International arbitration)
- *Medina v. City of Menlo Park* (N.D. Cal. jury trial)
- *In re JDSU Securities Litigation* (N.D. Cal. jury trial)
- *Verio Inc. v. Leonard, et al.* (AAA arbitration)
- *Doe v. City of San Francisco* (San Francisco Superior Court jury trial)

Pro Bono

- Defended a municipality at a jury trial against an individual seeking a substantial award for personal injuries.
- Obtained asylum for a client who had been persecuted for his sexual orientation.
- Represented a low-income housing client in San Francisco.
- Advised the Brady Center in challenges to state laws seeking to nullify federal firearms regulations.
- Represented the transgender community in a constitutional challenge to a Tennessee law prohibiting changing gender markers on birth certificates.
- Represented couples and civil rights organizations in groundbreaking litigation arising out of the same-sex marriage debate in California and Montana.
- Argued before the Ninth Circuit Court of Appeals in a habeas action.

Publications & Presentations

Publications

- “Finding Opportunity in Challenging Times,” San Francisco Attorney, October 28, 2020.

Presentations

- “Civil Rights in Crisis: A Critical Discussion of Racial Justice, Voting Rights, Women’s Rights and LGBTQ Rights in Advance of the 2020 Election,” 8th Annual Citywide Diversity and Inclusion Networking Event and Panel Discussion, October 15, 2020.

Professional & Community Engagement

- Bar Association of San Francisco, president (former); Judiciary Committee, chair (former); Antitrust Section, chair (former); board secretary and treasurer (former); board (former); Antitrust Section, Executive Committee; Minority Law Scholarship Selection Committee
- American Bar Association, Books & Treatises Committee, Antitrust Law Section, and Business Torts & Unfair Competition Committee
- California Lawyers Association, Executive Committee, Antitrust, UCL, and Privacy Section (2011–2014)
- Justice & Diversity Center of The Bar Association of San Francisco, board (former)

Recognitions

- Outstanding Volunteer, The Justice & Diversity Center of the Bar Association of San Francisco (2014, 2017, 2018)
- Unity Award, Minority Bar Coalition (2011)
- *Northern California Super Lawyers*, Business and Antitrust

Education

- Northwestern University (J.D., 1995)
- University of Minnesota (B.A., 1992)

Admitted to Practice

- California

Related Services

Litigation | Antitrust | Securities Litigation | Financial Services Litigation | Class Action & Multidistrict Litigation | Financial Services & Products | Technology & Telecommunications Litigation | Technology | Commercial | International Arbitration & Dispute Resolution