



John D. Pernick

Partner

jpernick@be-law.com

Tel- (408) 291-2253 Fax- (408) 297-6000

PRACTICE AREAS

Securities Litigation

Investigations & White Collar Defense

Intellectual Property Litigation

Business Litigation

PROFESSIONAL INVOLVEMENT

The Bar Association of San Francisco – Securities Litigation Section, Executive Committee, Member.

American Bar Association – Sections on Litigation and Securities, Member.

State Bar of California – Member.

EDUCATION

University of Michigan Law School (J.D., *cum laude* 1991);

Harvard College (B.A., 1988)

BAR ADMISSIONS

State Bar of California;

American Bar Association, Litigation Sections;

American Bar Association, Securities Sections

RECOGNITION

Best Lawyers® Securities - Litigation, 2023

Northern California Super Lawyers® – 2004, 2008-20

America's Top 100 Attorneys® – Among Top 100 Attorneys in Northern California for Bet-the-Company Litigation, 2019.

Chambers USA – 2013-14.

Legal 500 – 2012-13.

John D. Pernick
Rated by Super Lawyers

loading ...

SUMMARY

When business partnerships, startups, and investment funds are in the throes of intra-company disputes or face claims of wrongdoing, business litigator John D. Pernick guides companies and their founders, directors, executives, and investors toward resolutions that serve their overall interests, be it through negotiation or litigation. He also represents companies and individuals in complex state and federal litigation matters and in connection with investigations by the Securities Exchange Commission (SEC), Financial Industry Regulatory Authority (FINRA), U.S. Department of Justice (DOJ), and other regulatory agencies and authorities.

Business Breakups and Complex Disputes

John has more than 25 years of experience representing a range of clients, from Silicon Valley and Bay Area startups to Fortune 50 corporations, in complex business litigation in state and federal courts.

John leverages his background in corporate governance and corporate control fights to add expediency and efficiency to the litigation process. He aims to lessen the burden and disruption of litigation for emerging and growth companies while still obtaining optimal results. John's practice scope includes:

- Breach of contract and breach of fiduciary duty claims
- Complex commercial litigation
- Corporate control disputes
- Defective product claims
- Founder disputes
- Insurance coverage claims
- Investigations
- Securities litigation and class actions
- Shareholder derivative actions
- Supplier disputes
- Trade secrets and confidentiality agreements

Attuned to Silicon Valley Business Economics

John's clients include a cross-section of Silicon Valley's technology, software, and financial companies as well as manufacturers, online retailers and participants in emerging industries, such as cryptocurrency and cannabis.

In building a client's case, John digs deep into underlying business issues. He examines what should have happened to make the business prosper and actions, governance practices, and structural deficiencies that led to the dispute.

His representative experience includes defending venture capital firms and their partners in actions claiming breach of fiduciary duties in connection with portfolio company refinancings. He has also led tech company CEOs in company and shareholder disputes, and he has steered Chief Compliance Officers in proceedings before the DOJ, Federal Deposit Insurance Corporation, and other agencies.

Leadership in Business Litigation and Trials

John's is recognized by such top legal guides as *Chambers USA*, *Legal 500*, *Super Lawyers*, and *America's Top 100 Attorneys*®. In addition, he is a member of the Executive Committee of the Securities Litigation Section of The Bar Association of San Francisco.

Out of the office, John is an accomplished competitive sailor who was a member of the crew that

won the 2017 J/111 World Championship and 2018 J/111 North American Championship titles.

REPRESENTATIVE MATTERS

Corporate Governance and Complex Commercial Litigation

Kerrigan Capital, LLC v. Strohm, Atinar Capital II v. Alvarez

Represented venture capital firms and their partners in actions claiming breach of fiduciary duties in connection with portfolio company refinancings.

Mehta v. Kaazing, Inc., Mehta v. McManus

Represented an internet communications technology company in actions brought by the former CEO alleging breaches of fiduciary duty by company directors and officers.

Gilmore v. Turvo, Inc.

Represented a software company founder/CEO in an action to overturn wrongful removal.

Magic Link Garment Ltd. v. ThirdLove, Inc.

Represented an online clothing retailer in an action against a clothing manufacturer for damages relating to defective products.

Miller v. Oster

Represented technology company co-founders in an action brought by a shareholder alleging breaches of fiduciary duty in connection with company financings.

V Shapes Moulders, Ltd. v. ThirdLove, Inc.

Represented an online clothing retailer in an action brought by its component supplier alleging breach of confidentiality agreement.

Jessica Geis v. Paradigm Counsel, LLC

Represented a tech-focused investment bank in an action brought by a former client alleging breach of contract and negligence.

89 Acapulco, LLC. v. David Elias

Represented an investor in a cannabis-focused investment fund in an action against a fund manager and business associates for breaches of fiduciary duty.

Enterprise Holdings, Inc. v. Rolan Stockholder Representative, Inc.

Represented selling company shareholders in dispute over merger agreement escrow provisions.

Securities Litigation and Regulatory Actions

UCBH Holdings, Inc.

Represented a bank Chief Compliance Officer in FDIC and DOJ proceedings and securities actions concerning allegedly fraudulent regulatory filings.

In re Micro Focus International PLC Securities Litigation

Represented a technology company CEO in a securities class action alleging misrepresentations in securities offering registration materials and other public statements.

In re Tintri, Inc. Securities Litigation

Represented officers and directors of an enterprise cloud platform company in a securities class action and other proceedings.

PUBLICATIONS

Co-author: The chapter “Getting Underway and Closing the Deal” in the *Financial Services Mediation Answer Book* (July 2017).

Co-author: “Testing and Attacking Confidential Witness Allegations at an Early Stage,” American Bar Association Section of *Litigation, Securities Litigation Winter Newsletter* (March 20, 2014).

Co-author: “No Free Lunch: Court Scrutinizes Coughlin Stoia’s Free “Monitoring” of Client Investments,” *Bingham.com* (June 9, 2009).

Co-author: “Two Federal District Courts in California Dismiss Stock Option Backdating Derivative Actions for Failure to Adequately Plead Demand Futility,” *Bingham.com* (May 2007).

Author: “Protecting Online Databases: Copyright? We Don’t Need No Stinkin’ Copyright,” *Cyberspace Lawyer*.

Author: “Viruses, Hackers and Outages: Who Pays?,” *Cyber Tech Litigation Report* (June 2000).