

50-205/323

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10 PACIFIC GAS AND ELECTRIC COMPANY

11
12 UNITED STATES BANKRUPTCY COURT
13
14 NORTHERN DISTRICT OF CALIFORNIA
15
16 SAN FRANCISCO DIVISION

17 In re	Case No.: 01-30923 DM
18 PACIFIC GAS AND ELECTRIC	Chapter 11 Case
19 COMPANY, a California corporation,	Judge: Hon. Dennis Montali
20 Debtor.	Date: February 26, 2002
Federal I.D. No. 94-0742640	Time: 9:30 a.m.

21 **CERTIFICATION OF PETER J. BENVENUTTI IN SUPPORT OF HELLER**
22 **EHRMAN WHITE & McAULIFFE LLP'S SECOND INTERIM FEE**
23 **APPLICATION FOR ALLOWANCE AND PAYMENT OF COMPENSATION**
24 **AND REIMBURSEMENT OF EXPENSES FOR THE PERIOD**
25 **AUGUST 1, 2001, THROUGH NOVEMBER 30, 2001**

26 I, PETER J. BENVENUTTI, certify as follows:

27 1. I am a shareholder of the law firm of Heller Ehrman White & McAuliffe LLP
28 ("Heller Ehrman"), Special Counsel to Pacific Gas and Electric Company ("PG&E"), debtor
and debtor-in-possession in the above referenced bankruptcy case. I am a member in good
standing of the State Bar of California and am admitted to practice before this Court. I have
personal knowledge of the following matters unless stated to be on information and belief,
and as to those matters I believe them to be true. I submit this Certification in support of
Heller Ehrman's Second Interim Fee Application (the "Application") for Allowance and

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BENVENUTTI CERT. I/S/O SECOND HELLER
EHRMAN INTERIM FEE APPLICATION
Case No. 01-30923 DM

001 Admitted: Ricki Oye...

1 Payment of Compensation and Reimbursement of Expenses for the Period August 1, 2001,
2 Through November 30, 2001 (the "Application Period").

3 2. Attached as Exhibit A is a chart identifying, and providing applicable hourly
4 billing rates for, all Heller Ehrman attorneys and paralegals who performed services on
5 PG&E matters during the Application Period, and whose time is reflected on the timesheets
6 attached to the accompanying Time Records Exhibit. Attached as Exhibit B are brief
7 biographies of those Heller Ehrman attorneys and paralegals.

8 3. (a) I have read the Application. (b) To the best of my knowledge,
9 information, and belief, formed after reasonable inquiry, the compensation and expense
10 reimbursement sought in the Application are in conformity with the Bankruptcy Court's
11 Guidelines for Compensation and Expense Reimbursement of Professionals, except as
12 otherwise set forth in paragraphs 4-19 below. Paragraphs 4-19 below also address a number
13 of specific issues raised in the Court's Memorandum Decision Regarding Applications for
14 Interim Compensation of Professionals (Dec. 12, 2001) ("December 12, 2001 Order").

15 (c) The compensation and expense reimbursement requested are billed at rates and in
16 accordance with practices no less favorable than those customarily employed by Heller
17 Ehrman and generally accepted by Heller Ehrman's clients. Indeed, Heller Ehrman's rates
18 to PG&E both for lawyer and paralegal time reflect a discount from Heller Ehrman's normal
19 rates. I am informed and believe that the non-discounted hourly rates of the attorneys and
20 paralegals practicing at Heller Ehrman are consistent with those prevailing in the San
21 Francisco Bay Area community for similar services of lawyers and paralegals of reasonably
22 comparable skill and reputation.

23 4. There are certain respects in which Heller Ehrman's practices regarding
24 timekeeping, billing and expense reimbursement as reflected in the Application are not, or
25 may not be, in accordance with the Guidelines. These are described in the following
26 paragraphs. In each instance, the practice reflected in the Application is in accordance with
27 the practice followed in the course of Heller Ehrman's long representation of PG&E prior to

28

1 its bankruptcy filing and is no less favorable to PG&E — and in many instances is more
2 favorable — than the general practice applicable to Heller Ehrman’s clients.

3 5. **File Management.** Heller Ehrman paralegals perform a significant amount of
4 file management services, which are necessary to Heller Ehrman’s effective representation
5 of PG&E in the multiple matters on which Heller Ehrman has been engaged. A brief
6 description of the magnitude and complexity of the PG&E cases is necessary to understand
7 the importance of having trained paralegals manage the files in these cases. Heller Ehrman
8 currently is handling 22 separate matters for PG&E. Those matters are being handled by 38
9 lawyers in five Heller Ehrman offices (San Francisco, Washington D.C., Seattle, Portland,
10 and Los Angeles). The PG&E matters currently are the *third largest* engagement at Heller
11 Ehrman (based on time-value of services performed).

12 6. Representing PG&E effectively in the PG&E matters requires a high degree of
13 organization, coordination and centralization. As more fully set forth in the accompanying
14 Declaration of David R. Luster, enormous quantities of filings, decisions, correspondence
15 and other documents, both in hard copy and electronic form, are generated on a daily basis.
16 Numerous lawyers in multiple offices rely on centralized files to run these cases. If each
17 lawyer and his or her secretary were left to maintain their own files, organizational chaos
18 would result. Lawyers constantly would be looking for documents, duplicating others’
19 efforts, and wasting time.

20 7. It is the established and customary practice of this firm to have paralegals
21 handle file management tasks in very large and complex cases such as the PG&E matters.
22 Unlike clerical staff such as secretaries, paralegals are assigned to a specific matter or set of
23 matters, and develop familiarity with the substantive issues in those matters. Paralegals
24 therefore are equipped to make the often difficult judgment calls about how to manage files
25 in a complex case. For example, in the PG&E cases, a technical report by the Federal
26 Energy Regulatory Commission (“FERC”) may pertain to several energy regulatory matters
27 and need to be filed in more than one set of files. Only a professional or paraprofessional
28 with knowledge about the substance of the cases could make a determination as to which

1 files are involved. In addition, as attested in Mr. Luster's declaration, file management in
2 large cases such as the PG&E matters requires specialized training in indexing and
3 organizational systems.

4 8. Where possible, Heller Ehrman assigns routine clerical tasks to secretaries and
5 other personnel who do not bill their time to the client. Secretaries also manage individual
6 lawyers' files. However, as explained above, the demands of very large and complex cases
7 such as the PG&E matters requires centralized filing handled by paralegals. Heller Ehrman
8 customarily bills its nonbankruptcy clients for the services of paralegals to provide file
9 management services of the type performed here, and our nonbankruptcy clients customarily
10 pay for those services. These are precisely the types of services for which Heller Ehrman
11 billed PG&E, and PG&E paid, for many years before the Chapter 11 case.

12 9. It is not feasible for secretaries to perform the type of file management tasks
13 called for by the PG&E matters. The demands of the shared secretarial position in a large
14 law firm precludes secretaries from devoting the time to be trained in and perform the tasks
15 required to accurately manage the files of a large case.

16 10. Heller Ehrman's general policy (which I understand is consistent with the
17 norm in large San Francisco Bay area law firms) is, wherever possible, to assign three
18 lawyers to each secretary. Thus, a secretary assigned to a lawyer on a PG&E matter will be
19 responsible for many matters wholly unrelated to PG&E. Each addition of a lawyer to a
20 secretary's work load requires that the secretary devote less time to PG&E matters. In
21 addition, because of the time constraints created by assisting multiple lawyers, secretaries
22 are unable to develop specialized knowledge of the substance of the cases, which is crucial
23 for effective file management. Furthermore, Heller Ehrman secretaries generally are not
24 trained in the use of indexing systems, such as "LegalKey" software, and complex case file
25 management techniques.

26 11. As a further logistical impediment to secretaries handling file management,
27 the volume of documents in the PG&E matters requires that files be kept in separate
28 workrooms. The workrooms are located away from the secretarial work stations. Those

1 responsible for file maintenance must respond to numerous requests from many lawyers to
2 obtain and file materials in the workrooms. It would be prohibitively disruptive to have
3 secretaries repeatedly leaving their work stations to go to the workrooms.

4 **12. Compensation for File Management Services at Full Paralegal Rates.**

5 Heller Ehrman respectfully submits that compensation for file management activities should
6 be at full paralegal rates, rather than at the reduced rate of \$40 per hour specified in the
7 December 12, 2001 Order (p. 6). In the December 12, 2001 Order, the Court authorized
8 professionals retained by PG&E to request more than \$40 per hour in compensation for
9 personnel performing file management services if the professionals "demonstrate[] to the
10 satisfaction of the UST that the actual direct and indirect costs of employing the personnel
11 handling file management exceed \$40 an hour." Order at p. 6, lines 10-12. Submissions
12 regarding personnel costs are to be made with the United States Trustee, not filed in Court,
13 and the professional is to certify to the Court that it has made such a showing. *Id.* at lines
14 12-22.

15 **13.** Pursuant to the December 12, 2001 Order, I hereby certify that Heller Ehrman
16 is simultaneously submitting to the United States Trustee the Declaration of John R. Rich,
17 Heller Ehrman's Controller, and accompanying exhibits, which show that the actual cost to
18 Heller Ehrman of the paralegals performing work on PG&E matters approximates the actual
19 billing rates of those paralegals, and is well in excess of \$40 an hour. Heller Ehrman
20 therefore requests that compensation be authorized for the full billing rates of its paralegals
21 working on PG&E matters.

22 **14. Billing Rates for Paralegals M. Brett Stone and Nneka Nwosu.** In the
23 December 12, 2001, Order, the Court found that the resume of paralegal M. Brett Stone
24 "does not establish his credentials or professional experience sufficiently to convince the
25 court that his work should be billed at \$90 per hour." Order at p. 15, lines 9-12. Similarly,
26 the Court found that the resume of paralegal Nneka Nwosu "does not establish that she is
27 entitled to [be] billed as a paralegal." *Id.* at p. 16, lines 8-9. The Court reduced the allowed
28 compensation for services by Mr. Stone (normal billing rate: \$90 per hour) and Ms. Nwosu

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1 (normal billing rate: \$113 per hour) to \$40 an hour. Attached in Exhibit B are revised
2 resumes of Mr. Stone and Ms. Nwosu providing additional detail establishing their
3 qualifications as paralegals at Heller Ehrman. We respectfully request that the Court
4 reconsider its prior ruling regarding Mr. Stone and Ms. Nwosu's compensable rates, and
5 authorize compensation at their full rates.

6 **15. Compensation for Reviewing and Routing Articles Regarding PG&E and**
7 **the California Energy Crisis.** The December 12, 2001 Order (pp. 14-15) disallows any
8 compensation to Heller Ehrman for the time spent by its lead paralegal, David Luster, in
9 reviewing and routing articles regarding PG&E and the California energy crisis to lawyers
10 working on PG&E matters. The accompanying Declaration of David R. Luster (¶¶ 18-21)
11 explains in detail the complexity of the article reviewing process and why it is necessary for
12 trained personnel, such as a paralegal, to perform that task. (This function is currently being
13 performed by Mr. Stone, whose billing rate is substantially lower than Mr. Luster's.) Heller
14 Ehrman respectfully requests that the Court amend its December 12, 2001 Order to
15 authorize compensation to Heller Ehrman for time spent by its paralegals in reviewing and
16 routing articles regarding PG&E and the California energy crisis to lawyers working on
17 PG&E matters.

18 **16. Intra-Office Conferences.** Heller Ehrman strives to staff matters as
19 efficiently as possible. Heller Ehrman must, however, balance that objective against its
20 overriding objective of providing effective legal representation to PG&E. Heller Ehrman's
21 judgment regarding how it staffs matters seeks to accommodate these potentially competing
22 objectives.

23 **17. In representing PG&E, Heller Ehrman's attorneys participate in a significant**
24 **number of intra-office conferences.** In most instances, those conferences involve a small
25 number (two to four) of attorneys and/or paralegals, but on some occasions more attorneys
26 and/or paralegals are involved. On some occasions, one or more representatives of PG&E
27 also are involved. Heller Ehrman tries to minimize the number of intra-office conferences
28 and client conferences at which more than one timekeeper is involved. However, the

1 matters for which Heller Ehrman has been engaged are extraordinarily complex, both
 2 legally and factually. In order to represent PG&E effectively, Heller Ehrman's lawyers
 3 must coordinate and share expertise. Indeed, one of the reasons Heller Ehrman can provide
 4 effective services to PG&E is because it has multiple lawyers with specific areas of
 5 expertise. Approximately 38 attorneys and 20 paralegals performed services for PG&E
 6 during the Application Period. Intra-office conferences enabled those lawyers and
 7 paralegals to avoid *duplicating* efforts. Intra-office conferences also enable senior attorneys
 8 to supervise and direct the efforts of more junior attorneys and paralegals, assist in analysis
 9 and formulate strategy, and synthesize their expertise in the many diverse areas of practice
 10 implicated in this engagement. Heller Ehrman believes that the intra-office conferences
 11 reflected in the Application have been essential to enable Heller Ehrman to perform
 12 effective legal services for PG&E, and that full compensation should be allowed for all
 13 timekeepers attending those conferences.

14 **18. Attendance of More Than One Heller Ehrman Professional at Hearings.**

15 In the December 12, 2001, Order, the Court stated that it will "require justification for the
 16 appearance of more than one professional at any court hearing. In other words, an applicant
 17 must identify each hearing involving multiple professionals and justify specifically the use
 18 of professionals at each such hearing." Order at p. 7, lines 21-25. The following chart
 19 identifies all hearings during the Application Period attended by more than one Heller
 20 Ehrman professional and provides the justification for the attendance of multiple
 21 professionals at those hearings:

HEARING	PROFESSIONALS ATTENDING	JUSTIFICATION FOR ATTENDANCE OF MORE THAN ONE PROFESSIONAL
September 25, 2001, prehearing conference at FERC in Washington, DC regarding refund issue (Matter No. 63)	J. Fagan (attorney) S. Berman (attorney)	Mr. Berman, who has had experience with dozens of hearings at FERC over the past decade, was lead trial lawyer for PG&E at a FERC refund hearing held on September 25, 2001. In an effort to save money for PG&E, and in light of difficulties in air travel following September 11, 2001, Mr. Berman represented PG&E at that conference telephonically. In order for Heller Ehrman to participate in breakout sessions in hearing

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HEARING	PROFESSIONALS ATTENDING	JUSTIFICATION FOR ATTENDANCE OF MORE THAN ONE PROFESSIONAL
		rooms adjacent to the main hearing room to discuss scheduling issues, hearing tactics, and other matters with parties aligned with PG&E. Mr. Fagan (who works in Heller Ehrman's D.C. office) attended in person. Mr. Fagan also attended to assist at the main hearing in the event that the telephonic connection failed.
November 14, 2001, prehearing/status conference at the California Public Utilities Commission (Matter No. 80)	J.P. Hayden (attorney) M.L. Fiala (attorney) T.L. Jolish (attorney)	Ms. Fiala, Mr. Hayden and Ms. Jolish all have been actively involved in preparing PG&E's case for consideration by the CPUC in its ATPC proceeding. This was the first hearing held in the ATPC proceeding since Heller Ehrman entered its appearance, and important in terms of setting the scope and timetable for the proceeding as well as introducing all of the participants. Heller Ehrman attorneys specifically discussed with the client the proposed attendance at the prehearing conference by Mss. Fiala and Jolish and Mr. Hayden, and obtained approval in advance of their attendance at the November 14, 2001, prehearing conference.
October 22, 2001, hearing on first interim fee application in bankruptcy court (Matter No. 82)	A.M. Cole (attorney) P.J. Benvenuti (attorney) M.L. Fiala (attorney)	The hearing on Heller Ehrman's first interim fee application (in which approximately \$2.3 million in fees and expenses were at issue) required Heller Ehrman to address multiple issues, including issues relating to the overall nature of Heller Ehrman's work for PG&E during the first application period, the details of Heller Ehrman's timesheets and fees, and potential procedural issues in the bankruptcy proceeding. Three Heller Ehrman lawyers with different involvement in PG&E matters attended: Ms. Fiala, who is PG&E's lead counsel on a number of matters, and who, <i>inter alia</i> , was familiar with the overall relation of Heller Ehrman's work to that of other law firms; Mr. Cole, who had principal familiarity with the details of Heller Ehrman's application; and Mr. Benvenuti, Heller Ehrman's principal bankruptcy lawyer, with specific knowledge about bankruptcy proceedings and protocol.

19. **Issues Relating to Expenses.**

a. Although Heller Ehrman customarily charges clients for meals and transportation for attorneys, paralegals and support staff required to work late on the client's

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EXHIBIT A

Billing Rates For Heller Ehrman Timekeepers on PG&E Matters

Shareholders¹

<u>Timekeeper</u>	<u>Rate</u>
M L Popofsky	563.00; 473.00
B N Rushforth	473.00; 396.00
M L Fiala	459.00; 392.00
S A Berman	446.00; 365.00
P J Benvenuto	437.00; 369.00
M A Stosser	405.00; 338.00
D B Goodwin	396.00
J P Hayden	396.00; 338.00
W Russell	396.00
K B Finney	383.00
D C Brownstein	365.00; 301.50
T E Reiber	356.00; 356.00
M C Dotten	356.00; 320.00
A M Cole	342.00; 297.00

Associates

E L Brand	338.00
D L Bratton	338.00
J H Fagan	333.00
P B Mohler	333.00
H L Marsh	333.00
A S Borrasca	315.00
H S Kim	311.00
T G Glass	306.00
J E Stelck	293.00
D S Johnson	293.00

¹ Pursuant to the fee agreement between Heller Ehrman and PG&E applicable to matters other than insurance coverage matters (the insurance coverage matters reflected on the accompanying bills are 13779-0045 and 13779-0066; shareholder timekeepers: David B. Goodwin, Kenneth B. Finney, and Wondie Russell), Heller Ehrman has agreed to maintain shareholders' rates on matters that opened prior to 2001 at 2000 rates until 2002. Accordingly, in the table above, entries for all shareholders other than Mr. Goodwin, Mr. Finney and Ms. Russell show two rates: The first rate is for matters that opened in 2001 (all matters except 13779-0063, -0064, -0069 and -0074); the second rate is for matters that opened prior to 2001 (13779-0063, -0064, -0069 and -0074).

Billing Rates For Heller Ehrman Timekeepers on PG&E Matters

<u>Timekeeper</u>	<u>Rate</u>
V E Collanton	288.00
R H Sheen	279.00
H E Ware	279.00
E P Coral	279.00
C H Adams-Duma	279.00
S H Jaffe	252.00
T L Jolish	252.00
K W Stonebreaker	216.00
N L Hocken	216.00
S I Grace	207.00
C E Gould	176.00
M G Andrea	162.00
W Lee	158.00
T C Orvald	135.00

Paralegals and Other Nonlawyer Professionals²

A C Whitehead	140.00
D R Luster	140.00
C T O'Hoyne	140.00
S C Simcox	126.00
K K Alderman	126.00
J S Contino	122.00
A E Wellington	122.00
D E Cathel	113.00

² With the exception of the rates shown for paralegals N. Nwosu and M.B. Stone, the rates shown in this chart are the normal PG&E rates. Pursuant to the Court's December 12, 2001, Memorandum Decision Regarding Applications for Interim Compensation of Professionals ("December 12, 2001 Order"), at pp. 15-16, the Firm has reduced the billing rates for Ms. Nwosu and Mr. Stone to \$40.00 per hour (from their normal billing rates of \$113 per hour and \$90 per hour, respectively). Pursuant to the December 12, 2001 Order, the Firm also has reduced the billing rates for all paralegals for file management services to \$40 per hour, and for reviewing and routing articles regarding PG&E and the California energy crisis to \$0 an hour. As set forth in the accompanying Application, Heller Ehrman respectfully submits that it should be permitted compensation at full paralegal rates for file management services, the services of Ms. Nwosu and Mr. Stone, and reviewing and routing articles regarding PG&E and the California energy crisis.

Billing Rates For Heller Ehrman Timekeepers on PG&E Matters

<u>Timekeeper</u>	<u>Rate</u>
E Chang	108.00
N M McLaughlin	99.00
M K Holzer	99.00
P Paralegal	99.00
T Paralegal	99.00 ³
P M Tempelis	90.00
A Constantine	90.00
S Davis	90.00
S M Stewart	90.00
Temp Case Asst	90.00
C L Morris	68.00
J L Leasy	68.00
R C Fernandez	54.00
N Nwosu	40.00
M B Stone	40.00

³ The original bills, copies of which are attached to the Time Records Exhibit, reflect an incorrect billing rate of \$158 per hour for T Paralegal ("Temporary Paralegal"). The totals for those bills have been reduced to reflect the corrected \$99 per hour billing rate.

EXHIBIT B -



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Michael G. Andrea, Associate

Energy

Michael G. Andrea joined the firm in 2001 and has an energy and litigation practice.

EXPERIENCE

Mr. Andrea served as a judicial clerk for the Honorable Rives Kistler of the Oregon Court of Appeals from 1999 until joining Heller Ehrman in 2001. Before pursuing a career in law, Mr. Andrea served in the U.S. Navy as a member of the engineering department onboard a ballistic missile submarine.

EDUCATION

University of Idaho (B.S., *summa cum laude*, 1996); University of Oregon (J.D., 1999); Managing Editor, *Oregon Law Review*.

MEMBERSHIPS

Oregon State Bar Association; Multnomah County Bar Association; Energy Bar Association.

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Peter J. Benvenuti, Shareholder

Financial Services

Peter J. Benvenuti, head of the firm's Bankruptcy practice, joined the firm in 1988 and practices bankruptcy law with an emphasis on complex business reorganizations. He was Managing Partner of the firm's San Francisco office from January 1995 through April 1997.

EXPERIENCE

Mr. Benvenuti has engaged in a bankruptcy and creditors' rights practice since 1974. In the bankruptcy courts, he has represented secured and unsecured institutional lenders, reorganization trustees, debtors in possession, creditors' committees, real and personal property lessors, asset acquirers, and venture capital investors in reorganization cases. Mr. Benvenuti has represented financial institutions (frequently) and borrowers (on occasion) in work-out negotiations involving both real estate and commercial loans. He also regularly formulates restructuring strategies and provides transaction and litigation counsel concerning bankruptcy and creditors' rights.

Mr. Benvenuti has lectured widely on bankruptcy and financing issues and is listed in the bankruptcy section of *Best Lawyers in America*

(all editions since 1987).

EDUCATION

Harvard College (B.A., *cum laude*, 1971); University of California, Berkeley, Boalt Hall School of Law (J.D., 1974); Order of the Coif.

MEMBERSHIPS

State Bar of California; American Bar Association (Business Law Section; Business Bankruptcy Committee); Bar Association of San Francisco (Arbitrator, Attorney Fee Dispute Committee); California Bankruptcy Forum (Director, 1991-95; President, 1993-94); Bay Area Bankruptcy Forum (Director, 1991-94; President, 1991-92); American Bankruptcy Institute (Committee on Professional Compensation); Lawyer Representative, Ninth Circuit Judicial Conference, 1994-- (Chair of No. Dist. of Calif. Delegation, 1995-97; Member, Conference Executive Committee, 1997--).

REPRESENTATIVE ENGAGEMENTS

- *In re Winterland Concessions Company*, U.S. Bankruptcy Court, N.D. Cal., 1997-98. Client, a designer and manufacturer of specialty apparel, was financially distressed due to the highly-leveraged financing of its acquisition and disputes among its owners. In a setting in which speed was essential to a successful restructuring, a plan was negotiated and confirmed less than five months after client's Chapter 11 case was filed.
- *In re Pederson's Fryer Farms, Inc.*, U.S. Bankruptcy Court, W.D. Wash., 1996-97. Client was acquirer of Chapter 11 debtor's poultry growing, processing and marketing business.
- *In re Sun World, Inc.*, U.S. Bankruptcy Court, C.D. Cal., 1994-96. Client bank was working capital lender--\$55 million--to Chapter 11

client, a title company. On behalf of our client, we negotiated, proposed and obtained confirmation of a Chapter 11 plan which resulted in settlement on favorable terms of nearly all potential claims against client. Only one lawsuit was filed against client, by a single lender.

- *In re John Breuner Company*, U.S. Bankruptcy Court, N.D. Cal., 1994. As court-appointed mediator, he was instrumental in producing negotiated resolution of seemingly intractable dispute between Chapter 11 debtor, a large regional furniture retailer and creditor's committee regarding plan confirmation.
- *In re Brown Associates*, U.S. Bankruptcy Court, C.D. Cal., 1992-93; Ninth Circuit Bankruptcy Appellate Panel, 1993-95. On behalf of client, lender with \$9 million junior deed of trust, defeated Chapter 11 plan of debtor in single asset real estate case and proposed and obtained confirmation of client's plan, via cram-down over opposition of senior \$10 million secured lender.
- *In re Pacific Fruit Growers and Packers, Inc.*, U.S. Bankruptcy Court, E.D. Wash., 1991-92. On behalf of lender with half of \$45 million senior bank credit facility, structured and took lead in obtaining confirmation, by cram-down over objection of subordinated debt holders, of Chapter 11 plan which preserved most of client's secured claim and gave client and co-lender 80% of stock of reorganized debtor, a vertically integrated grower, processor and marketer of apples and other fruit. Chapter 11 plan was confirmed within 6 months of commencement of case.
- *In re American Continental Corporation*, U.S. District Court, D. Ariz., 1990-91. Chapter 11 debtor was holding company parent of Lincoln Savings & Loan. Client accounting firm was charged with professional negligence and complicity in connection with Lincoln's highly publicized misconduct, and was defendant in investors' class action litigation and on claims asserted by RTC. In the Chapter 11 case, we objected to confirmation of plan advocated jointly by creditors' committee and RTC; objection was settled at beginning of confirmation hearing, producing significant

benefits for client in bankruptcy and re RTC.

- *Bank of America v. Ventura Port District*, California Superior Court, Ventura County, 1989-90. Client bank was indenture trustee on \$10 million of defaulted certificates of participation issued by financially troubled port district to finance shoreside port improvements, and secured by those improvements. Pursued judicial foreclosure and simultaneously negotiated resolution with district, bondholders and prospective purchasers of improvements; produced settlement, funded by sale of collateral, which paid all principal and major portion of delinquent interest for certificate holders. Less than a year later, district filed Chapter 9.
- *In re Hansen Foods, Inc.*, U.S. Bankruptcy Court, C.D. Cal., 1989-90. Client was major secured creditor--\$25 million--of Chapter 11 debtor, a soft drink producer. We successfully resisted challenge by debtor to client's claim and effort by debtor to sell its business over client's objection, then negotiated terms of sale of business acceptable to client resulting in payment of client's claim.
- *In re FoodSource Sales Corporation*, U.S. Bankruptcy Court, N.D. Cal., 1985-91. Client was creditors' committee in one of two related Chapter 11 cases of insolvent tax shelter promoter which had marketed interests in specialized controlled atmosphere shipping containers. We negotiated with committee in case of affiliated debtor and obtained confirmation of plan which produced full payment of creditors represented by our client committee.

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Carl Adams-Duma joined the firm in 1997 and practices corporate law.

EXPERIENCE

Mr. Adams-Duma's practice involves counseling start-ups, venture capital financing, corporate governance, mergers and acquisitions, corporate finance, international contracts, securities matters involving public and private offerings, structuring partnerships, limited liability companies, corporations and joint ventures. He has substantial experience in representing investment funds, merchant banks, investment banks and other private investors.

EDUCATION

University of Minnesota (B.S., Business Administration, Economics, 1988); Chulalongkorn University (Bangkok, Thailand, 1996); Golden Gate University (J.D., 1997).

MEMBERSHIPS

American Bar Association; State Bar of California; Bar Association of San Francisco; Barristers Club; State Bar Young Lawyers Association.


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Stan Berman, Shareholder

Energy

Stan Berman joined Heller Ehrman's Seattle office as a shareholder in 1999 and practices energy law and complex civil and administrative litigation. He is also resident in the firm's DC office.

EXPERIENCE

Mr. Berman represents electric utilities and other electric industry participants on energy related matters including operation and formation of regional transmission organizations, formation of transcos and independent transmission companies, mergers and acquisitions, asset purchases and divestitures, other transmission issues, rate issues, electric market operations, state and federal regulation, and other issues arising from the restructuring of the electric industry. Mr. Berman also represents gas pipeline companies in rate and other regulatory proceedings.

Prior to joining Heller Ehrman in 1999, Mr. Berman was the Assistant General Counsel for Hydroelectric and Electric Litigation at the Federal Energy Regulatory Commission (FERC). In this position, he directed the Trial Staff in all litigated cases involving electric and hydroelectric matters nationwide. Mr. Berman played a major role in developing and implementing FERC Order No. 888, which ordered all electric utilities in the United States to provide

open access transmission service. He directed Trial Staff efforts in all aspects of the subsequent restructuring of the electric industry, including litigation efforts concerning mergers of electric utilities and concerning regional transmission organizations throughout the United States.

Earlier, Mr. Berman worked as a trial attorney in the Office of Hydroelectric and Electric Litigation at FERC, representing Trial Staff in numerous cases concerning electric utilities and electric utility mergers. Mr. Berman began his legal career as an Assistant Corporation Counsel for the City of Chicago, where he litigated complex

EDUCATION

California Institute of Technology (B.S., Physics, with Honors, 1985); Columbia University School of Law (J.D., Harlan Fiske Stone Scholar, 1988).

MEMBERSHIPS

District of Columbia Bar; Illinois State Bar; Washington State Bar; Federal Energy Bar Association.

REPRESENTATIVE ENGAGEMENTS

At FERC, Mr. Berman participated in or supervised scores of major proceedings involving all aspects of the electric and hydroelectric industries. Since joining Heller Ehrman, Mr. Berman has taken on numerous major engagements including the following:

- Represents Commonwealth Edison Company on FERC matters, including regional transmission issues. Represented ComEd and its affiliates in their efforts to obtain approval from FERC for their merger with PECO Energy into the new Exelon Corp.
- Represents Pacific Gas & Electric Co. and its affiliates on matters relating to regional transmission organizations, the California Independent System Operator and Power Exchange, the restructuring of the electric industry in California, and other regulatory matters.
- Represents Puget Sound Energy on FERC matters including formation of RTO West, a regional transmission organization in the Western United States.

- Represents Avista Corporation, Montana Power, Nevada Power, Portland General Electric, Puget Sound Energy, and Sierra Pacific Power, in the formation of a new independent transmission company - TransConnect LLC - which will own and operate transmission assets in the West.
- Represents Kansas Pipeline Company (a subsidiary of Midcoast Energy Resources, Inc.) in Kansas Pipeline's rate case at the Federal Energy Regulatory Commission.

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aborrasca@hewm.com

Adelia S. Borrasca, Special Counsel

Energy

Adelia S. Borrasca joined the firm in April 1996 and practices energy and environmental law.

EXPERIENCE

Ms. Borrasca has practiced extensively before the Federal Energy Regulatory Commission, representing clients in all aspects of FERC regulation, including electric rates, independent power production, hydroelectric licensing, natural gas tariff and certificate proceedings, and oil pipeline tariff matters. Ms. Borrasca has experience with gas and electric power purchase contracts, and regularly advises clients on the regulatory implications of proposed transactions under the Natural Gas Act, Federal Power Act and Public Utility Holding Company Act.

Ms. Borrasca's experience also includes positions in the Office of the General Counsel of the Federal Energy Regulatory Commission and as counsel on energy and environmental issues for a member of the Commerce Committee in the U.S. House of

EDUCATION

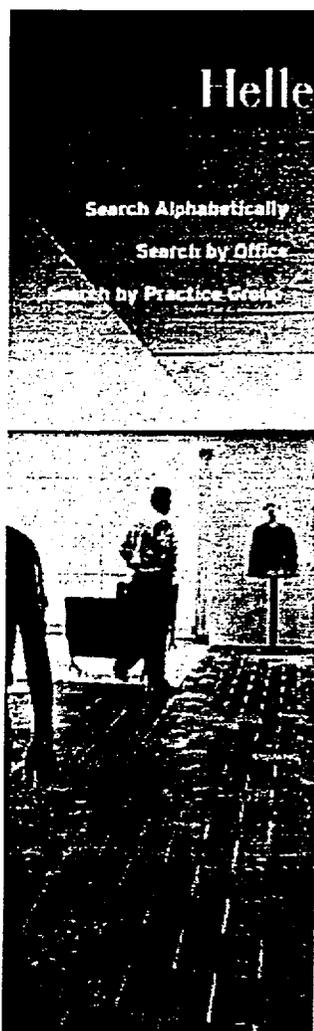
University of Alabama (B.A., 1970);
Georgetown University Law Center (J.D., 1983).

MEMBERSHIPS

District of Columbia Bar Association;
Alabama Bar Association; American Bar
Association; Energy Bar Association;
member of the bars of the U.S. Supreme
Court, U.S. Courts of Appeals for the
Federal and District of Columbia Circuits,
U.S. Court of International Trade, Alabama
Supreme Court.

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ebrand@hewm.com

Esta L. Brand, Special Counsel

Insurance Coverage

Esta L. Brand joined the firm in 1985 and practices commercial litigation.

EXPERIENCE

Ms. Brand has represented a broad range of clients, including several banks, manufacturers, accountants, broker-dealers and a major utility.

EDUCATION

Brandeis University (B.A., English, 1970); University of California, Berkeley, (Teaching Credential, 1972); University of California, Berkeley, Boalt Hall School of Law (J.D., 1978); California Law Review; Order of the Coif. Ms. Brand was a law clerk to the Honorable William H. Orrick, Jr., of the U.S. District Court for the Northern District of California.

MEMBERSHIPS

State Bar of California; Bar Association of San Francisco; U.S. District Courts for the Northern and Central Districts of California; U.S. Circuit of Appeals for the Federal Circuit.

REPRESENTATIVE ENGAGEMENTS

- Represented a major utility in insurance coverage litigation.
- Represented an electronics manufacturer in antitrust litigation.

- Represented a bank in consumer class action concerning credit card practices.
- Represented a large manufacturer in a consumer class action concerning vinyl siding.

ARTICLES

[The Path to Powerline](#) *The Recorder* -
November 10, 1999

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dbratton@hewm.com

Dale L. Bratton, Special Counsel

Financial Services

Dale Bratton joined the firm in 1988 and practices bankruptcy law, insolvency law generally, creditors' rights and remedies, and commercial law and litigation. He also serves as a mediator in these areas.

EXPERIENCE

Mr. Bratton has represented a major California bank in numerous loan workout negotiations and in real and personal property foreclosures. He has also represented secured and unsecured creditors, real property lessors, venture capital investors, and intellectual property licensors and licensees in bankruptcy cases. In addition, Mr. Bratton has represented Chapter 11 debtors in the cases of a multi-state real estate developer, a computer network software company, and a plant biotechnology company, and he has participated in complex Chapter 11 plan confirmation contests for both creditors and debtors. He has extensive experience in bankruptcy appeals including cases before the U.S. Court of Appeals for the Ninth Circuit and the U.S. Bankruptcy Appellate Panel of the Ninth Circuit. Mr. Bratton has advised transactions and litigation counsel on bankruptcy and creditors' remedies issues. Mr. Bratton regularly advises on highly technical matters involving the Perishable Agricultural commodities Act

(PACA), the California Agricultural Producer's Lien, and other agricultural liens.

Mr. Bratton is the author of "The California Agricultural Producer's Lien, Processing Company Insolvencies, and Federal Bankruptcy Law," *Hastings Law Journal*, Vol. 36, No. 4 (1985); cited in *In re Loretto Winery Ltd.*, 898 F.2d 715, 725-27 (9th Cir. 1990) (Beezer, J., dissenting); *In re T.H. Richards Processing Company*, 910 F.2d 639, 645 (9th Cir. 1990), and *In re Churchill Nut Co.*, 251 B.R. 143, 148 (Bankr. N.D. Cal. 2000). He is also the author of "ADR and Bankruptcy Cases," *ABTL Report*, Vol. 4, No 3 (July 1995), and co-author of "Reductions in Force and Plant Closings," *ADVISING CALIFORNIA EMPLOYERS* (CEB 2000, Ch. 20).

Since 1994, Mr. Bratton has been serving as a Resolution Advocate, i.e. a member of the ADR panel appointed by the U.S. Bankruptcy Court for the Northern District

EDUCATION

University of Illinois (A.B., with Highest Distinction, Phi Beta Kappa, 1964); University of California, Berkeley (Ph.D., 1978); University of California, Hastings College of the Law (J.D., 1986); Article Editor, *Hastings Law Journal*; Order of the Coif. Mr. Bratton is a former judicial extern to the Honorable William Schwarzer of the U.S. District Court for the Northern District of California.

MEMBERSHIPS

American Bar Association; State Bar of California; Bar Association of San Francisco; Bay Area Bankruptcy Forum; California Bankruptcy Forum.

REPRESENTATIVE ENGAGEMENTS

- For a major supplier of computer interface software to computer manufacturers, Mr. Bratton was called in on the day that a cross-licensor/licensee of the client's intellectual property rights filed Chapter 11. The debtor had already negotiated and scheduled a sale of all of its assets including intellectual property rights to one of the client's major competitors, with the sale to

be held just four days into the case. Mr. Bratton was able to obtain a temporary restraining order from the bankruptcy court, which forced the debtor and would-be buyer to the negotiating table. A successful settlement was reached, in the first twelve days of the Chapter 11 case, in which our client recovered its own technology while obtaining a royalty-free license for continued use of the debtor's technology.

- For a major California bank, Mr. Bratton provided representation in the out-of-court restructuring of the bank's \$13 million subordinated loan to a large agricultural enterprise. The workout negotiations were complex and very lengthy, but we negotiated a high pre-restructure rate of interest on the loan for the period of the workout discussions. In effect, therefore, the borrower paid a significant premium for the time the borrower consumed in coming to eventual agreement on the long-term provisions of the restructuring.
- For a large real estate investment company, Mr. Bratton provided representation in the Chapter 11 case of a borrower which owned an office-space complex at an industrial park and was in default on a \$30 million loan. By utilizing bankruptcy procedure more skillfully than the debtor, Mr. Bratton was able to obtain confirmation of a creditor's plan of reorganization by the bankruptcy court. He achieved the client's goal of obtaining ownership of the property despite the borrower's Chapter 11 which prevented ordinary foreclosure.
- For a foreign luxury car manufacturer, Mr. Bratton provided appellate representation on the appeal of a decision of the bankruptcy court in the Chapter 11 case of the client's dealerships assigning the dealership, over the manufacturer's objection, to an unsuitable party. Mr. Bratton successfully preserved review on the merits against a vigorous contention that the appeal was mooted by events (a common result in bankruptcy appeals), and was successful in having the assignment overturned by the U.S. Court of Appeals for the Ninth Circuit. The decision is reported as *In re R.B.B., Inc.*, 211 F.3d 475 (9th Cir. 2000).

For a major software maker, because of his UCC expertise Mr. Bratton participated with a litigation team in state court on an ex-employee's claim that the client had wrongfully prevented him from selling stock which he had received in an earlier settlement. The plaintiff sought compensatory and punitive damages in excess of \$5 million. By the time Mr. Bratton was called in, the case had spawned litigation in both Israel and California. He had the principal responsibility for complex UCC stock-transfer issues. A successful settlement was reached on the eve of trial.

- For a major software maker, because of his UCC expertise Mr. Bratton participated with a litigation team in state court on an ex-employee's claim that the client had wrongfully prevented him from selling stock which he had received in an earlier settlement. The plaintiff sought compensatory and punitive damages in excess of \$5 million. By the time Mr. Bratton was called in, the case had spawned litigation in both Israel and California. He had the principal responsibility for complex UCC stock-transfer issues. A successful settlement was reached on the eve of trial.
- For a leading West Coast stock brokerage firm, Mr. Bratton provides general bankruptcy advice, with particular reference to the problems presented by brokerage customer bankruptcy filings. He has advised the brokerage firm on, e.g., margin loan foreclosure and automatic stay issues, preference defenses, and disputed claims to securities held in customer accounts. Mr. Bratton provides similar general advice on bankruptcy matters which arise for a leading computer chip equipment manufacturer, and a leading software company.
- Although he is a bankruptcy mediation panel member, Mr. Bratton was appointed by a judge of the U.S. District Court in San Francisco as mediator for a consumer collection rights case pending in the district court. He was selected for his knowledge of the Fair Debt Collection Practices Act, and the mediation resulted in a settlement.
- For a major franchisor in the

temporary help industry, Mr. Bratton provided representation as advocate in the mediation of a non-dischargeability action in the bankruptcy case of a break-away franchisee. After fraudulently misusing the franchisor's trademarks and customer lists, resulting in entry of judgment against franchisee in state court, the break-away franchisee filed for bankruptcy. In the mediation urged on the parties by the bankruptcy judge, Mr. Bratton was able to achieve appointment of a mediator both fair and knowledgeable in franchise law. A settlement was negotiated which exceeded the client's expectations. The client's position that franchisees may not with impunity misappropriate the franchisor's core business was reinforced, its major goal.

- For a non-California state employee pension fund, Mr. Bratton provided representation in the insolvency of a very large California life insurance company. The state fund had \$140 million in investment contracts with the insurance company, \$80 million of that was subject to risk of an unfavorable ranking in the Insurance Code's ordering of creditor priorities. If the more favorable priority (as policyholder claims) were obtained, the state fund would recover about 85% of its money. If the less favorable priority (as "other general claims") were imposed, the state fund would have recovered zero on the \$80 million. In complex multi-party negotiations, Mr. Bratton was able to obtain a very favorable settlement of the critical issues. The Insurance Commissioner entered into a separate, binding settlement in the state fund's favor on its claim priority. This settlement was upheld on appeal. This settlement also triggered other, and ultimately complete, settlements of the key disputes in the insurance company conservatorship.
- Mr. Bratton also encounters some very challenging and rarely seen issues in his practice. He has been involved in the case of a U.S. citizen resident in Asia who sought to file for bankruptcy protection in San Francisco against American creditors. He has represented a manufacturer

sued for allegedly giving a faulty credit reference on behalf of one of its distributors. He has advised an Israeli state enterprise on whether injunctive relief can be had in the United States when there is a commercial contract forum clause placing exclusive jurisdiction in the Israeli courts. He has advised a Japanese investment company on the problems of obtaining a security interest in collateral to be used by the borrower in a U.S. federal territory not part of any state.

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David C. Brownstein, Shareholder

Antitrust & Trade Regulation

David Brownstein, the San Francisco Operations Managing Shareholder, joined the firm in 1989 and has a litigation practice.

EXPERIENCE

Mr. Brownstein has a commercial litigation practice emphasizing intellectual property issues. He has litigated cases and advised clients on patent, copyright and trade secret protection. Mr. Brownstein has also represented clients in antitrust, securities, banking, insurance coverage, telecommunications matters and general business disputes.

EDUCATION

University of California, Berkeley (A.B., with honors, 1984); University of Michigan Law School (J.D., *cum laude*, 1989).

MEMBERSHIPS

American Bar Association; State Bar of California; Bar Association of San Francisco.

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acole@hewm.com

Adam M. Cole, Shareholder

Insurance Coverage International

Adam Cole joined the firm in 1996 and practices general commercial litigation and insurance coverage counseling and representation.

EXPERIENCE

Mr. Cole practices complex commercial litigation in federal and state court, with a specialty in insurance coverage. In addition to insurance coverage, Mr. Cole's areas of practice include administrative and regulatory law, antitrust, and Constitutional law. Prior to joining Heller Ehrman White & McAuliffe LLP, Mr. Cole practiced litigation, with specialties in appellate litigation and insurance coverage, at Covington & Burling in Washington, DC. He has published (with Robert N. Saylor) "The Mother of All Battles: The Dispute over Insurance Coverage for Environmental Contamination in the United States," *Environmental Liability* (Maxwell & Sweet) (1993).

EDUCATION

Yale University (B.A., Religious Studies, *magna cum laude*, 1983); Harvard Law School (J.D., *cum laude*, 1989). Mr. Cole was a law clerk to the Honorable John M. Steadman of the District of Columbia Court of Appeals in 1989-90.

GOVERNMENT SERVICE

Mr. Cole served as a United States Peace Corps Volunteer in Swaziland, Africa from

MEMBERSHIPS

American Bar Association; California and District of Columbia Bars. Admitted to practice in the United States Supreme Court, the United States Courts of Appeals for the Federal and Ninth Circuits, the United States Court of Federal Claims, and the United States District Courts for the Northern, Central, Southern and Eastern Districts of California.

REPRESENTATIVE ENGAGEMENTS

- Represented numerous Fortune 500 companies in insurance coverage litigation, including appeals, involving environmental, asbestos, and advertising injury liability.
- Represented major United States oil companies in litigation against the United States government involving breach of contract and takings claims.
- Represented IBM in defense of claim by bankrupt motor carrier in Interstate Commerce Commission and federal district and appellate courts.
- Represented major Japanese securities firm as creditor in international bankruptcy litigation in United States courts.

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vcollanton@hewm.com

Valerie E. Collanton, Associate

Antitrust & Trade Regulation

Valerie Collanton joined Heller Ehrman in 2001 and practices litigation.

EXPERIENCE

Ms. Collanton has practiced law at Heller Ehrman for the past two years as an Agency and Contract Attorney. She began working on the United States v. Visa USA matter and at the conclusion of the case was hired as a permanent attorney. Prior to her contracted work at Heller Ehrman, she managed her own law office in the Virgin Islands with a practice emphasizing civil litigation, legal malpractice, business disputes, foreclosures, fraud & defamation.

Vallerie Collanton also worked as a Litigation Associate with two other law firms and has experience with the Government of the Virgin Islands in the Public Defender's Office and the Department of Justice along with the New York County's Office of the District Attorney and the Supreme Court of the State of

EDUCATION

University of California, Hastings College of The Law, (J.D., 1986), *magna cum laude*, Thurston Society, Chief Managing Editor of Hastings International, and Comparative Law Review; San Francisco State University (B.A. 1983) *cum laude*, Dean's List.

MEMBERSHIPS

State of California Bar Association;
Territory of the Virgin Islands Bar
Association; State of New York Bar
Association.

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Edgar P. Coral, Associate

Environmental Regulation & Litigation

Edgar Coral joined our San Francisco office in 2001 and practices environmental law.

EXPERIENCE

Mr. Coral's practice covers environmental litigation, as well as all aspects of corporate environmental practice, including transactional due diligence, environmental accounting and disclosure issues for SEC purposes, and the addressing of environmental issues arising from merger and acquisition, finance and real estate transactions pursuant to federal, state, local, and foreign laws and regulations. In addition, Mr. Coral is experienced in regulatory and legislative counseling with regard to California and federal statutes involving hazardous materials, natural resources, water quality, endangered species, and occupational health and safety, as well as in non-traditional counseling approaches such as environmental management system programs.

EDUCATION

Brown University (A.B. Human Evolution, *magna cum laude*, 1990); University of Pennsylvania (Graduate Studies in Ecology and Evolutionary Biology, 1991-93); New York University School of Law (J.D. 1997); Editor-in-Chief, NYU *Environmental Law Journal*.

MEMBERSHIPS

American Bar Association; State Bar of California; State Bar of New York.

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mdotten@hewm.com

Michael C. Dotten, Shareholder

Energy

Antitrust & Trade Regulation

Michael C. Dotten was with Heller Ehrman from 1983 through 1998 (1985-1998 as shareholder) and rejoined the firm as shareholder on June 1, 1999.

EXPERIENCE

Most recently, Mr. Dotten served as General Counsel and Assistant Secretary to PG&E Gas Transmission, Northwest Corporation, an interstate natural gas pipeline subsidiary of a top-3 national energy company. As its chief legal officer, he advised the company in all aspects of its legal needs, including issues involving contracts, regulatory compliance, litigation, employment and labor relations, business organization and securities filings, and he oversaw outside counsel. At Heller Ehrman, he represents gas and electricity utilities and industrial consumers, cogenerators, independent power producers, hydroelectric plant owners; telephone service providers, and sewer and water utilities in federal and state courts, before BPA, FERC, other federal agencies, state public utility commissions and planning bodies. He also negotiates natural gas and electricity supply and transportation contracts. He has represented clients in 16 states.

Earlier in his career, Mr. Dotten was the principal rate attorney for BPA. He was

responsible for the negotiation, preparation and presentation of BPA's wholesale and transmission rates before BPA hearing officers, the FERC, and the courts. While at BPA, he served as a Special Assistant United States Attorney. Prior to joining BPA, Mr. Dotten was an Assistant Attorney General assigned to the Idaho Public Utilities Commission, where he handled electric, natural gas, telephone and water rate cases and facility siting proceedings.

Mr. Dotten's professional activities include his appointment by the President of the ABA to the Coordinating Group on Energy Law. He served on the Council of the ABA's Section on Natural Resources, Energy and Environmental Law. He is a past President of the Federal Bar Association, Oregon Chapter. He is listed in: Best Lawyers in America (Utility Law); Who's Who in America; Energy Who's Who; Who's Who in American Law; and IDU Who's Who in Cogeneration and Independent Power.

EDUCATION

University of Oregon (B.S., 1974, Oregon Scholar, Friar's Senior Honorary); University of Oregon Law School (J.D. 1977); post-graduate courses in Alternative Dispute Resolution, Mediation, Negotiation and Settlement.

MEMBERSHIPS

Oregon and Idaho State Bar Associations; Federal Energy Bar Association; American Bar Association; Federal Bar Association; U.S. District Courts-Oregon and Idaho; U.S. Courts of Appeals-Ninth and D.C. Circuits; U.S. Claims Court; and United States Supreme Court.

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Joseph H. Fagan, Associate

Energy

Joseph Fagan joined the firm in June 2000 as a senior associate and practices energy law.

EXPERIENCE

Mr. Fagan represents natural gas pipelines in rate and certificate proceedings before the Federal Energy Regulatory Commission and the United States Circuit Courts of Appeals. Mr. Fagan also represents electric utility clients in various regulatory and transactional matters arising from the restructuring of the electric industry.

Prior to joining Heller Ehrman, Mr. Fagan was an associate with the firm of LeBoeuf, Lamb, Greene & MacRae where his experience included representing natural gas pipeline and electric utility clients in appellate, regulatory and contractual matters. Mr. Fagan also represented non-public utility clients before the Minerals Management Service, the Postal Rate Commission, and the Surface Transportation Board. During law school, Mr. Fagan was a law clerk in the Office of the Solicitor of the Federal Energy Regulatory Commission, where he researched and wrote memoranda on issues supporting the Commission's legal arguments before the United States Circuit

EDUCATION

Wesleyan University (B.A., with honors, 1988); George Washington University National Law Center (J.D., 1993)

MEMBERSHIPS

Federal Energy Bar Association (Judicial Review, Natural Gas Regulation, Young Lawyers and Website Committees); District of Columbia Bar; Connecticut State Bar; United States Court of Appeals for the District of Columbia Circuit; United States Court of Appeals for the Ninth Circuit.

PUBLICATIONS:

"From Regulation to Deregulation: The Diminishing Role of the Small Consumer in the Natural Gas Industry," Tulsa Law

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Marie L. Fiala, Shareholder

[Antitrust & Trade Regulation](#)
[Energy](#)

Ms. Fiala joined the firm in 1978 and has a litigation practice.

EXPERIENCE

Ms. Fiala has a litigation practice in the federal and state courts with emphasis on complex antitrust, securities, accountant liability, intellectual property and damages issues. For a number of years she has served as lead counsel for Pacific Gas & Electric Company in numerous cases and counseling engagements involving antitrust and business issues that have arisen in the natural gas transportation and sales markets in the wake of deregulation, and that arise out of federal and state deregulation of the electric industry. Her successful representations of PG&E include obtaining a dismissal with prejudice of a \$950 million pre-trebling federal antitrust case charging the company with price-fixing, *County of Stanislaus v. Pacific Gas & Electric Company*, and dismissal with prejudice of a \$150 million pre-trebling federal antitrust case alleging monopolization of the natural gas transportation and sales markets, *Norcen Energy Resources Limited v. Pacific Gas & Electric Company*. Ms. Fiala counsels numerous clients on a range of antitrust issues including providing access to

"essential facilities," relations with competitors, joint venture formation and product privacy, distribution and marketing.

Ms. Fiala has significant trial experience in large cases. She served as counsel successfully defending VISA U.S.A., Inc. in a landmark "essential facility" antitrust case brought by Sears, Roebuck & Co. in the District of Utah to force its admission into the VISA joint venture despite Sears' ownership of the competing Discover Card Program.

Ms. Fiala has represented a number of the "Big Six" and other major accounting firms in private and class action securities litigation, administrative proceedings and other professional liability litigation arising out of their accounting, auditing or management advisory services. She was trial and appellate counsel for Ernst & Young in *Bily v. Arthur Young & Company*, 3 Cal. 4th 370 (1992), the first California Supreme Court accountant liability case, which adopted an "intended beneficiary" standard limiting accountants' negligence liability to third parties. She was also trial counsel in the *Ramtek Securities Litigation* in the Northern District of California. Ms. Fiala's litigation practice also has included representation of companies, directors and officers in securities fraud class actions and shareholder derivative suits, including representation of Sierra Pacific Resources, a Nevada utility holding company, in federal securities fraud and shareholder derivative lawsuits arising out of the operations of the company's utility and oil

EDUCATION

Stanford University (A.B., Psychology & Human Biology, With Distinction, 1974); Stanford Law School (J.D., 1977). Ms. Fiala is a former law clerk to the Honorable Cecil F. Poole during his tenure on the U.S. District Court for the Northern District of California.

MEMBERSHIPS

American Bar Association; State Bar of California; Bar Association of San Francisco.

REPRESENTATIVE ENGAGEMENTS

- Represents Pacific Gas & Electric



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Kenneth B. Finney, Shareholder

[Environmental Regulation & Litigation](#)
[Real Estate](#)

Kenneth B. Finney joined the firm in 1987 and his practice areas are environmental litigation and EHS regulatory/administrative proceedings.

EXPERIENCE

Mr. Finney has had extensive experience with California and federal statutes in the areas of hazardous substances, natural resources and worker safety, and with the regulatory programs of environmental and public health agencies. His practice includes: RCRA, CERCLA, air quality, TSCA and OSHA regulatory counseling; CERCLA, common law and insurance cost recovery litigation; and writ and administrative law proceedings challenging government environmental, worker safety and land-use actions. Mr. Finney has served as outside counsel for major corporations handling the full range of EHS regulatory, litigation and transaction matters.

Prior to joining Heller Ehrman, Mr. Finney worked as: Assistant to the Governor for Toxic Substances Control; Committee Consultant to the California State Senate Committee on Natural Resources; and, Legislative Aide in the California Legislature. In these capacities, he drafted and negotiated numerous statutes and administrative policy initiatives in toxic substances control and resource protection.

substances control and resource protection. Among other things, he drafted the legislation creating CalOSHA's Hazard Communication System and was responsible for the administrative creation of the Division of Toxic Substances Control, Dept. of Health Services.

EDUCATION

Reed College (B.A., Biology, 1978);
University of California, Berkeley (M.S., 1987); University of California, Berkeley, Boalt Hall School of Law (J.D., 1987).

MEMBERSHIPS

American Bar Association; State Bar of California.

REPRESENTATIVE ENGAGEMENTS

- Raychem Corporation, EHS regulatory and litigation counsel.
- Varian Associates, Inc., EHS regulatory and litigation counsel.
- Applied Aerospace Structures, Environmental regulatory counsel.
- Coastal Corporation, Environmental litigation counsel.
- Hertz Corporation, Land-use writ proceeding counsel.

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dgoodwin@hewm.com

David B. Goodwin, Shareholder

Insurance Coverage Product Liability

Mr. Goodwin joined the firm in 1986 and practices litigation emphasizing insurance coverage and complex commercial disputes. He is the co-chair of Heller Ehrman's Insurance Coverage Practice Group and a member of the firm's Year 2000 Task Force.

EXPERIENCE

Mr. Goodwin has represented numerous corporate and individual policyholders in insurance coverage litigation, negotiation and counseling involving both third-party liability claims and first-party property damage and business interruption losses. He also has substantial experience in antitrust and general business litigation.

Mr. Goodwin has published widely on insurance coverage, antitrust, civil procedure and other issues. His articles have appeared in the *Stanford Law Review* and *Antitrust Law Journal*. Mr. Goodwin is an adjunct professor at the University of California, Hastings College of the Law, where he teaches a course on insurance and civil procedure issues. In addition, he is the President of the Bar Association of

EDUCATION

University of California, Santa Cruz (A.B.,

History & Religious Studies, Honors, 1974); Oxford University (B.A., Oriental Studies, Honors, 1976); Stanford Law School (J.D., 1982); Articles Editor, *Stanford Law Review*. Mr. Goodwin is a former law clerk to the Honorable Joseph T. Sneed of the U.S. Court of Appeals for the Ninth Circuit.

MEMBERSHIPS

State Bar of California; Bar Association of San Francisco.

REPRESENTATIVE ENGAGEMENTS

- Mr. Goodwin has been the lead attorney in numerous insurance coverage engagements. He has been the "first chair" trial attorney in trials involving insurance coverage for environmental and products liabilities.
- Mr. Goodwin has appeared as counsel for the parties or for amici curiae in dozens of appellate proceedings, including virtually every major insurance coverage appeal in the 1990s.
- Mr. Goodwin provides insurance counseling to risk managers and in-house attorneys at businesses such as Atlantic Richfield Company and Pacific Gas & Electric Company, as well as at numerous high technology and financial services organizations.
- In a pro bono engagement, Mr. Goodwin persuaded the California Supreme Court to declare a statewide ballot initiative unconstitutional.

ARTICLES

[Legal Advice Risk Management](#) - April 2000

[The Path to Powerline](#) *The Recorder* - November 10, 1999

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Company in numerous cases and counseling engagements involving business and antitrust issues that have arisen in the natural gas transportation and sales markets in the wake of deregulation.

- Represented Sierra Pacific Resources, a Nevada utility holding company, in federal securities fraud and shareholder derivative lawsuits arising out of the operations of the company's utility and oil and gas subsidiaries.
- Served as counsel successfully defending VISA U.S.A., Inc. in an important antitrust case brought by Sears, Roebuck & Co. in the District of Utah to force its admission into the VISA joint venture despite Sears' ownership of the competing Discover Card Program.
- Represented a number of the "Big Six" and other major accounting firms in private and class action securities litigation, administrative proceedings and other professional liability litigation arising out of their accounting, auditing or management advisory services.
- Served as trial and appellate counsel for *Ernst & Young in Bily v. Arthur Young & Company*, 3 Cal. 4th 370 (1992), the first California Supreme Court accountant liability case, which adopted an "intended beneficiary" standard limiting accountants' negligence liability to third parties.
- Served as trial counsel in the Ramtek Securities Litigation in the Northern District of California.

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tglass@hewm.com

Todd G. Glass, Associate

Energy

Todd G. Glass joined the firm in 1996 and practices energy law, complex administrative litigation, and public policy development.

EXPERIENCE

Mr. Glass's energy practice includes representation of clients in federal and state administrative proceedings involving regulated energy and transportation industries, licensing of hydroelectric and other energy generation projects, negotiation of contracts for industrial users of electricity and natural gas, and civil litigation before state and federal courts. He has appeared in numerous states on electric industry restructuring matters, ratemaking, and the application of federal antitrust laws to regulated industries.

Prior to joining Heller Ehrman, he worked on environmental and energy policy issues at the Washington Utilities and Transportation Commission, the Bonneville Power Administration, and for an environmental consulting firm on contract with the U.S. Environmental Protection Agency in Washington D.C. In 1995, he published a comment on federal water reclamation law and policy reform in

EDUCATION

Cornell University (B.A., *magna cum laude*, 1988); University of Washington (M.P.A., 1992, Environmental and National Resources Policy); Northwestern School of Law of Lewis and Clark College (J.D. and Certificate in Environmental and Natural Resources Law, 1994); Editor-in-Chief, *Environmental Law*, the law review of Northwestern School of Law of Lewis and Clark College (1993-94).

MEMBERSHIPS

Oregon State Bar Association; Washington State Bar Association; Washington D.C. Bar Association; American Bar Association; Federal Bar Association.

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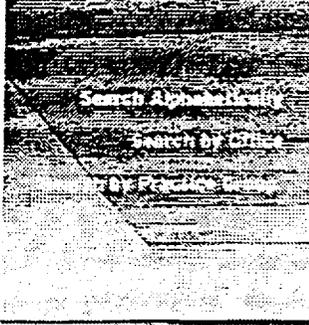


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cgould@hewm.com

Christine E. Gould joined the firm in 2000 and practices in Heller Ehrman's litigation group.

EXPERIENCE
Prior to joining Heller Ehrman, Ms. Gould was an intern at Rights International in Miami, Florida doing research for human rights litigation in international courts. Ms. Gould was also an intern to the Honorable Robert D. Sack of the U.S. Court of Appeals for the Second Circuit. In 1999, she spent her summer with Heller Ehrman as a summer associate.

EDUCATION
Yale University (B.A., *cum laude*, History, 1995); Columbia University School of Law (J.D., 2000), Stone Scholar; *Columbia Law Review*.

MEMBERSHIPS
State Bar of California.





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sgrace@hewm.com

Sandy I-Ru Grace, Associate

Energy

Sandy I-Ru Grace joined Heller Ehrman in July 2001 as an associate in the Energy National Practice Group.

EXPERIENCE

Prior to joining the firm, Ms. Grace was a law clerk for the Honorable Lawrence Brenner and the Honorable Edward M. Silverstein. She also served as a law clerk to the Honorable Stephen L. Grossman, the Honorable Herbert Grossman, and the Honorable Delbert R. Terrill in the Office of Administrative Law Judges with the Federal Energy Regulatory Commission. Ms. Grace was involved in drafting analytical sections of Initial Decisions, Settlement Certifications, and Orders, concerning complex energy issues.

Ms. Grace currently serves on the board of a domestic violence non-profit organization (Domestic Violence Resource Project) that works to address the needs of domestic violence victims in the Asian community. An active advocate of domestic violence victims' rights, Ms. Grace sits on the board of the Washington, DC Mayor's Commission on Violence against Women. As an Attorney Advocate for the House of Ruth Domestic Violence Legal Clinic in Baltimore, Maryland, she provided victims of domestic violence with legal assistance as well as referrals regarding issues such as bankruptcy, public benefits, employment and immigration.

EDUCATION

Georgetown University, School of Foreign Service (B.S.F.S., 1995); American University (J.D., *cum laude*, 1998).

MEMBERSHIPS

Maryland Bar; admitted to practice only in federal courts and agencies in Washington, DC; Domestic Violence Resource Project Board of Directors.

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jhayden@hewm.com

Jonathan P. Hayden, Shareholder

[Financial Services](#)
[Insurance Coverage](#)

Jonathan Hayden joined the firm in 1982 and has a litigation practice emphasizing trial work in areas including financial institutions, real estate and insurance coverage. Mr. Hayden is the co-chair of the San Francisco office Litigation Department.

EXPERIENCE

Mr. Hayden represents financial institutions in consumer class actions arising under a variety of legal theories and his significant jury trial experience in a range of matters. Mr. Hayden's trial work includes lead counsel roles on behalf of defendant banks and real estate developers involving real estate and lending relationships and lead or co-lead roles in complex insurance coverage actions of behalf of plaintiff policyholders.

EDUCATION

University of California, Santa Cruz (B.A., with Honors, 1978); Hastings College of the Law (J.D., *summa cum laude*, Valedictorian, 1982); *Order of the Coif*; Hastings Law Journal.

MEMBERSHIPS

Executive Committee of the Litigation Section of the San Francisco Bar Association; Faculty, National Institute of

Trial Advocacy; former Commissioner of the San Francisco Residential Rent Stabilization and Arbitration Board.

REPRESENTATIVE ENGAGEMENTS

- On behalf of several consumer lenders, Mr. Hayden is lead counsel in numerous class action and Business & Professions Code § 17200 cases involving credit cards, real estate lending, consumer privacy, bankruptcy reaffirmations, private label credit cards, Truth In Lending, Fair Credit Reporting, and other areas.
- On behalf of defendants, Mr. Hayden has successfully tried to juries claims relating to lender liability and tortious interference with economic advantage.
- On behalf of an international pharmaceutical company, Mr. Hayden (as co-lead counsel) obtained favorable settlements and, in a five month jury trial, a successful declaration of rights involving a several hundred million dollar claim against our client's insurance companies for environmental liabilities.
- On behalf of a wood treating company, Mr. Hayden was the lead counsel in a jury trial in Portland, Oregon against insurance companies that sought recovery for the costs of environmental cleanups at manufacturing sites in Portland, Oregon and Stockton, California. The action was settled favorably during trial.
- On behalf of a major personal computer company and certain officers and directors, Mr. Hayden was one of the trial lawyers in a multi-million dollar securities class action jury trial that resulted in judgments in favor of all the individual defendants and a new trial order (after a defense verdict) for the company. The action was then settled.
- On behalf of a multinational corporation, Mr. Hayden was counsel at a successful arbitration of a hotly contested claim for lost profits under a business interruption insurance policy.



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nhocken@hewm.com

Natalie L. Hocken, Associate

Energy

Natalie L. Hocken joined the firm in 1999 and has an energy and litigation practice.

EXPERIENCE

Prior to joining Heller Ehrman, Ms. Hocken was an associate with LeBoeuf, Lamb, Greene & MacRae, LLP in Portland, Oregon where she practiced energy law and represented regulated and non-regulated companies in administrative, trial and appellate litigation.

Ms. Hocken also served as a law clerk to the Honorable William Richardson, Chief Judge of the Oregon Court of Appeals from

EDUCATION

University of Washington (B.A., Society and Justice, 1991); University of Oregon (J.D., 1994); Managing Editor, *Oregon Law Review*.

MEMBERSHIPS

Oregon State Bar Association; Washington State Bar Association; Federal Bar Association; Multnomah County Bar Association (Pro Bono Committee); Oregon State Bar (Law School Outreach Committee); Oregon Women Lawyers.



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siaffe@hewm.com

Sheldon Jaffe joined the firm in 1999 and practices litigation.

EXPERIENCE

Mr. Jaffe is a former law clerk to the Honorable Richard B. Sanders, Justice of the Supreme Court of the State of Washington.

EDUCATION

Metropolitan State College of Denver (B.A., *summa cum laude*, 1978); City College of New York (M.A., 1991); University of Washington School of Law (J.D., 1998); Topics Editor, *Washington Law Review*; Order of the Coif.

MEMBERSHIPS

State Bar of California.

PUBLICATIONS: "What a Long Strange Trip It's Been: Court-Created Limitations on Rights of Action for Negligently Furnishing Alcohol," 72 *Washington Law Review* 595,



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dajohnson@hewm.com

EXPERIENCE

David S. Johnson joined the firm in 1999 and practices energy and administrative law on behalf of Alaska and Pacific Northwest utility, power producer, and industrial clients. Before joining Heller Ehrman, Mr. Johnson served as senior in-house counsel for Washington Natural Gas Company, a leading energy company in the Pacific Northwest. He represented the company in several complex rate cases as its chief Washington state regulatory counsel. He managed the successful defense of major litigation and settled numerous other business disputes.

Mr. Johnson was also responsible for the review and documentation of all Washington Natural Gas contracts to purchase and sell natural gas and interstate pipeline capacity. He prepared a 20-year special supply contract to serve the company's largest customer, Boeing Airplane Company.

Prior to Washington Natural Gas, Mr. Johnson maintained a law practice in Anchorage, Alaska specializing in energy, regulatory and banking law. He represented electric utility and telecommunications clients in regulatory proceedings, litigation, financings, real estate negotiations and contract issues. As the firm's appellate specialist he briefed numerous appeals before state and federal courts and

administrative agencies, and argued 3 of the appeals before the Alaska Supreme

EDUCATION

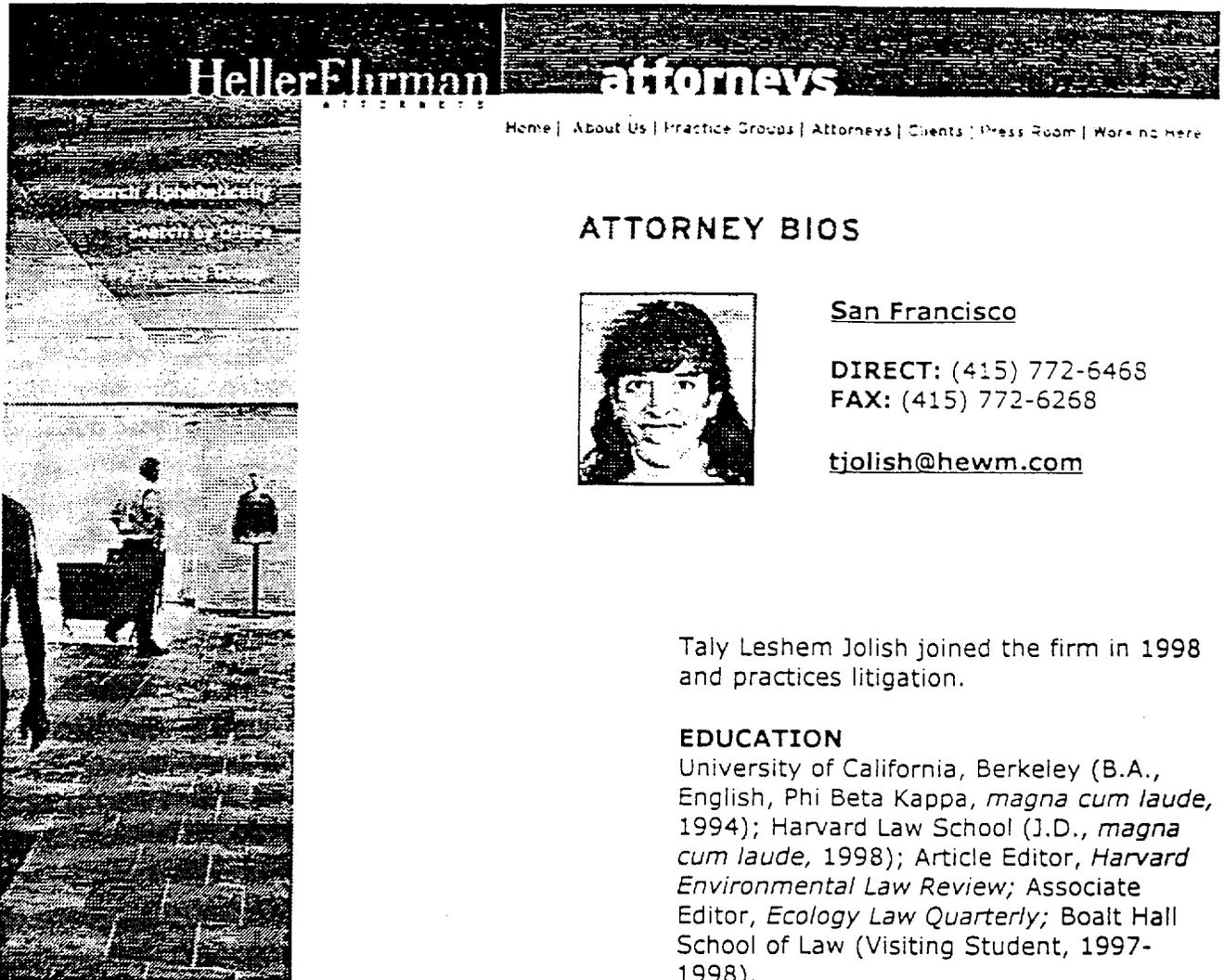
University of California, Davis (B.A., *cum laude*, 1975); Omnicron Delta Epsilon (Scholastic Achievement); University of California, Los Angeles (M.A., Environmental Planning, J.D., Joint Degree Program, 1980); Dean's Council Award (Scholastic Achievement).

MEMBERSHIPS

Washington State and Alaska Bar Associations.

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tjolith@hewm.com

Taly Leshem Jolish joined the firm in 1998 and practices litigation.

EDUCATION

University of California, Berkeley (B.A., English, Phi Beta Kappa, *magna cum laude*, 1994); Harvard Law School (J.D., *magna cum laude*, 1998); Article Editor, *Harvard Environmental Law Review*; Associate Editor, *Ecology Law Quarterly*; Boalt Hall School of Law (Visiting Student, 1997-1998).

Publications: "Negotiating the Smog Away," 18 *Virginia Environmental Law*

MEMBERSHIPS

State Bar of California.



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hkim@hewm.com

Hyun Sun Kim, Special Counsel

Energy

Hyun Sun Kim joined the firm in January 2001 as an associate and practices energy law.

Ms. Kim represents electric utility clients in various regulatory and transactional matters, particularly in industry restructuring matters and administrative litigation proceedings before the Federal Energy Regulatory Commission. Ms. Kim is also experienced in the area of natural gas

EXPERIENCE

Prior to joining the Heller Ehrman, Ms. Kim was an attorney at the Federal Energy Regulatory Commission. Her responsibilities have included advising and drafting legal documents on all aspects of electric regulatory issues. She also was the lead counsel in administrative litigation proceedings involving electric cases and is experienced in conducting administrative trials before administrative law judges. Ms. Kim has also worked in pipeline certificate matters.

EDUCATION

Barnard College (B.A. 1987); University of Pittsburgh School of Law (J.D., 1992)

MEMBERSHIPS

New York Bar; New Jersey Bar.

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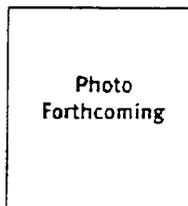
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wlee@hewm.com

Wei-Drin Lee, Associate
(not yet admitted to the bar)

Wei-Drin Lee joined the firm in 2001 and practices litigation. Ms. Lee has not yet been admitted to the California Bar.

EXPERIENCE

Prior to joining Heller Ehrman, Ms. Lee researched the institutional response to the passage of affirmative action initiatives in California and Washington with Prof. Samuel Gross of the University of Michigan Law School.

EDUCATION

Princeton University (B.A., *summa cum laude*, 1997); University of Michigan Law School (J.D., *cum laude*, 2001).

MEMBERSHIPS

Not yet admitted to the State Bar of California.



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hmarsh@hewm.com

Helen L. Marsh, Associate

[Product Liability](#)
[Insurance Coverage](#)

Helen L. Marsh joined the firm in 1996 and practices litigation.

EXPERIENCE

Ms. Marsh has a litigation practice emphasizing products liability (including toxic torts), insurance coverage and commercial litigation. She played a leading role in managing thousands of lawsuits filed against a major manufacturer of building products.

She has handled trials of numerous jury and non-jury matters in state and federal courts. She is also experienced in the arbitration of commercial disputes, as well as administrative proceedings. She has extensive substantive knowledge of tort law, insurance coverage and case management.

Ms. Marsh has also worked on large, complex matters involving millions of documents. In her largest case to date, she managed the review of over 50,000 boxes of records. She has designed and used litigation support systems for many large matters. She has also been responsible for the creation of an advanced system for use by a manufacturer in responding to multiple discovery requests in mass tort litigation.

EDUCATION

Hamline University / A Political Science

University (B.S., Biological Science, *magna cum laude*, 1973); University of California, Boalt Hall School of Law (J.D., 1976).

MEMBERSHIPS

American Bar Association; State Bar of California; Colorado Bar Association; Colorado Women's Bar Association.

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pmohler@hewm.com

Paul B. Mohler, Special Counsel

Energy

Paul B. Mohler joined HellerEhrman's D.C. office in September, 2000. His practice focuses on energy law and complex administrative litigation.

EXPERIENCE

Mr. Mohler has extensive experience with all aspects of regulatory law governing natural gas production and pipelines, oil pipelines, and electric utilities. As a trial attorney in the Federal Energy Regulatory Commission's (FERC) Office of Administration, he supervised a team of attorneys litigating natural gas and oil pipeline rate proceedings, electric utility rates and merger cases, and other regulatory and complaint proceedings. Mr. Mohler served as lead counsel in a number of administrative proceedings, including a fully litigated natural gas rate case and cases involving the restructuring of California's electric energy markets.

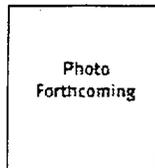
In addition to his trial experience, Mr. Mohler served as legal advisor to FERC Commissioner Hoecker. In that capacity, he provided guidance and policy advice on oil pipeline and natural gas matters, including implementation of natural gas pipeline restructuring under Order No. 636. Prior to serving with Commissioner Hoecker, Mr. Mohler was Deputy Director of the Division of Special Pipeline Rates at the FERC, a

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Thomas C. Orvald, Associate

Energy

Thomas C. Orvald joined the firm in 2001 as an associate in the Energy National Practice Group.

EXPERIENCE

Prior to joining Heller Ehrman, Mr. Orvald served as a summer associate with the law firm of Coudert Brothers in New York and Palo Alto, where he gained experience in various corporate, intellectual property and venture capital financing matters. Before entering law, Mr. Orvald previously worked as a research assistant, editorial assistant and a touring tennis professional on the ATP tennis tour.

EDUCATION

Princeton University (B.A., Politics with a certificate in American Studies, 1993); Boston University School of Law (J.D., 2001), 1999 Stone Moot Court Competition, 2000 Esdaile Moot Court Student Judge.

MEMBERSHIPS

Washington State Bar.

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ipopofsky@hewm.com

M. Laurence Popofsky, Shareholder

[Antitrust & Trade Regulation](#)
[Professional Liability](#)

Laurence Popofsky joined the firm in 1962 and practices litigation.

EXPERIENCE

Mr. Popofsky has participated in a variety of antitrust, securities fraud and intellectual property matters. He has argued two cases in the U.S. Supreme Court, a half dozen in the California Supreme Court and approximately 70 others in various appellate courts. Mr. Popofsky was the first Heller Ehrman member to be elected to the American College of Trial Lawyers.

Mr. Popofsky is best known for his antitrust practice, including his landmark victory in the United States Supreme Court in *Continental T.V., Inc., et al. v. GTE Sylvania Inc.* More recently, he has led the Heller Ehrman litigation teams representing Visa U.S.A. in litigation involving Dean Witter, Discover and American Express. His practice has encompassed all aspects of antitrust jurisprudence both state and federal, court and agency alike.

His securities litigation practice has spanned the range of all types of clients, including the target company and its senior officers (Apple Computer and Sierra Pacific Resources); outside directors (Teledyne); accountants (Ernst & Young in Lincoln

Savings and Osborne, and Price Waterhouse in the City of San Jose bond litigation); lawyers (Spendthrift Farms); and underwriters (Victor Technologies and Disonics). On behalf of the Practising Law Institute and other organizations, Mr. Popofsky has lectured extensively on antitrust, securities and procedural issues. He has written numerous articles in the

EDUCATION

State University of Iowa (B.A., *summa cum laude*, Phi Beta Kappa, 1958); Oxford University (B.A., First Class Honours, 1960), Rhodes Scholarship; Harvard Law School (LL.B., *cum laude*, 1962).

MEMBERSHIPS

American Bar Association; State Bar of California; Bar Association of San Francisco; Fellow, American College of Trial Lawyers; American Bar Foundation; Bureau of National Affairs (Antitrust and Trade Regulation Advisory Board); California Historical Society (Board of Directors, Northern District).

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treiber@hewm.com

Thomas E. Reiber, Shareholder

Antitrust & Trade Regulation

EXPERIENCE

Mr. Reiber's practice focuses on antitrust litigation and counseling, from price-fixing, monopolization and tying claims to joint ventures and distributor relations issues. He also has represented clients in civil and criminal investigations conducted by government enforcement agencies. In addition, Mr. Reiber has significant experience with issues that arise as regulated industries make the transition to a market-based regime, including antitrust concerns, federal preemption and Commerce Clause limitations on state regulatory power, takings issues, and exclusive and primary regulatory jurisdiction. Mr. Reiber also has experience with copyright and entertainment-related litigation.

EDUCATION

University of Virginia (B.A., 1989, with highest distinction); University of California, Boalt Hall School of Law (J.D., 1992, Order of the Coif). Mr. Reiber clerked for the Honorable Alicemarie H. Stotler, United States District Court for the Central District of California.

MEMBERSHIPS

State Bar of California; American Bar Association; Los Angeles County Bar

Association; admitted to practice before the United States Court of Appeals for the Ninth Circuit, and the Central, Eastern, and Northern Districts of California.

REPRESENTATIVE ENGAGEMENTS

- Ongoing representation of Visa U.S.A. in an antitrust action brought by the Department of Justice challenging the dual ownership by member financial institutions of Visa and MasterCard, and a Visa by-law prohibiting members from issuing competing payment cards. The case went to trial in New York during summer, 2000, and is under submission at this time.
- Ongoing representation of Pacific Gas and Electric Company in regulatory and judicial proceedings related to California's energy crisis, including a federal court lawsuit against the commissioners of the California Public Utilities Commission raising preemption, filed rate doctrine, takings, and Commerce Clause challenges to the CPUC's refusal to pass through billions of dollars of electricity procurement costs in retail rates.
- Ongoing representation of Cytec Industries Inc. and Cytec Fiberite Inc. in price fixing litigation and in Department of Justice investigation.
- Ongoing representation of The Coca-Cola Company in a tying case pending in the Northern District.
- Ongoing antitrust advice to Microsoft Corporation related to product distribution.
- Represented Pacific Gas & Electric Company and its subsidiaries in a class action alleging price-fixing and denial of access to pipeline. The Ninth Circuit affirmed dismissal of the claims on a motion to dismiss (114 F.3d 858), and certiorari was denied.
- Represented Pacific Gas & Electric Company in a monopolization, tying, and predatory investment case involving gas pipeline. Motion to dismiss antitrust claims was granted with prejudice.
- Represented Cytec Industries Inc. in an antitrust case alleging that it tied the sale of various aircraft interior products sold to Boeing.
- Represented UUNET Technologies, Inc. in the 1997 Department of Justice investigation of a transaction

between Worldcom, America Online, Inc. and CompuServe.

- Represented a high-profile Hollywood producer and actress in a copyright infringement action.
- Represented Pacific Gas & Electric Company in an action challenging a state commission's assertion of jurisdiction over Canadian gas procurement costs on preemption, filed rate doctrine, and Commerce Clause grounds.
- Represented The Coca-Cola Company in an antitrust action challenging its exclusive territorial distribution system and policy against transshipment in the United States and abroad.

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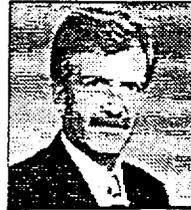


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brushforth@hewm.com

Brent N. Rushforth, Shareholder

Antitrust & Trade Regulation

Brent Rushforth, Managing Shareholder of the Washington, D.C. office, joined the firm in 1998 and practices antitrust and intellectual property litigation.

EXPERIENCE

Mr. Rushforth has extensive litigation experience in antitrust and unfair competition, intellectual property and trade regulation. He has in-depth experience in antitrust and unfair competition issues in the telecommunications and cable television industries. He has represented such clients as MCI, Cox Communications, Black & Decker, Marriott Corporation and the American Booksellers Association.

Mr. Rushforth is the current chairman and cofounder of the Center for Law in the Public Interest, a public interest law firm in Los Angeles, and was deputy general counsel for the U.S. Department of Defense in the negotiations over the Strategic Arms Limitation Treaty.

Prior to joining Heller Ehrman, Mr. Rushforth was a partner with Jenner & Block in Washington, D.C., where he had

EDUCATION

Stanford University (B.A., 1964, M.A., 1966); Boalt Hall School of Law, University



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wrussell@hewm.com

Wondie Russell, Shareholder

Insurance Coverage Product Liability

Wondie Russell joined the firm in 1978 and has a litigation practice emphasizing insurance coverage, commercial tort litigation and product liability (including toxic tort).

EXPERIENCE

Ms. Russell has represented a diverse range of clients in counseling, negotiations, arbitrations and jury and non-jury litigation. Ms. Russell has been active in the coordination of multiple plaintiff toxic tort litigation on behalf of manufacturers. Over the years, she has been involved in a wide variety of products liability, workplace safety, toxic tort and "right to know" matters. Her experience includes issues arising in the processing, manufacture and distribution of minerals, steel and other metals, asbestos and other building products, industrial equipment and products, sports and recreational products, foods, paints, dyes, chemicals, restaurant and office equipment.

Ms. Russell has unique expertise and experience in the design, development, implementation and supervision of projects and litigation requiring the management of mega-document collections and the use of a wide variety of computerized litigation support systems.

EDUCATION

University of Florida (B.A., English & Political Science, 1966); Santa Clara University (J.D., 1977). Ms. Russell is a former law clerk to the Honorable William A. Ingram of the U.S. District Court for the Northern District of California.

MEMBERSHIPS

American Bar Association; State Bar of California; Bar Association of San Francisco; Legal Aid Society of San Francisco (President, Board of Directors); Chinese for Affirmative Action (Member, Board of Directors).

REPRESENTATIVE ENGAGEMENTS

- Pacific Gas & Electric Company v. Lexington Insurance Co., et al., No. 948209 (San Francisco Superior) Represents Pacific Gas & Electric in an action against its insurers seeking recovery for 67 sites subject to environmental enforcement proceedings.
- Commercial Union Insurance Company v. Cannelton Industries, Inc., No. 2:92-CV-111 (W.D. Mich.) Ongoing representation of a Cyprus Amax Minerals Company subsidiary against multiple insurance companies in a declaratory judgment proceeding to recover costs of EPA-mandated remediation of a former leather tannery site.
- ARCO v. AETNA, et al., No. BC015575 (Los Angeles Superior) Representator of ARCO in an action against numerous insurers to recover costs of defense and environmental remediation at multiple sites located in various states and involving diverse operational histories.
- Ms. Russell was actively involved in the landmark coordinated California litigation concerning the scope and interpretation of comprehensive general liability insurance coverage in the context of asbestos bodily injury and property damage issues.
- Over the past decade she has represented numerous corporate policyholders in obtaining insurance coverage for products liability, toxic tort, environmental and other claims. In connection with such insurance engagements, she has continued to

assist policyholder clients in the management and coordination of defense, settlement and trial of underlying litigation.

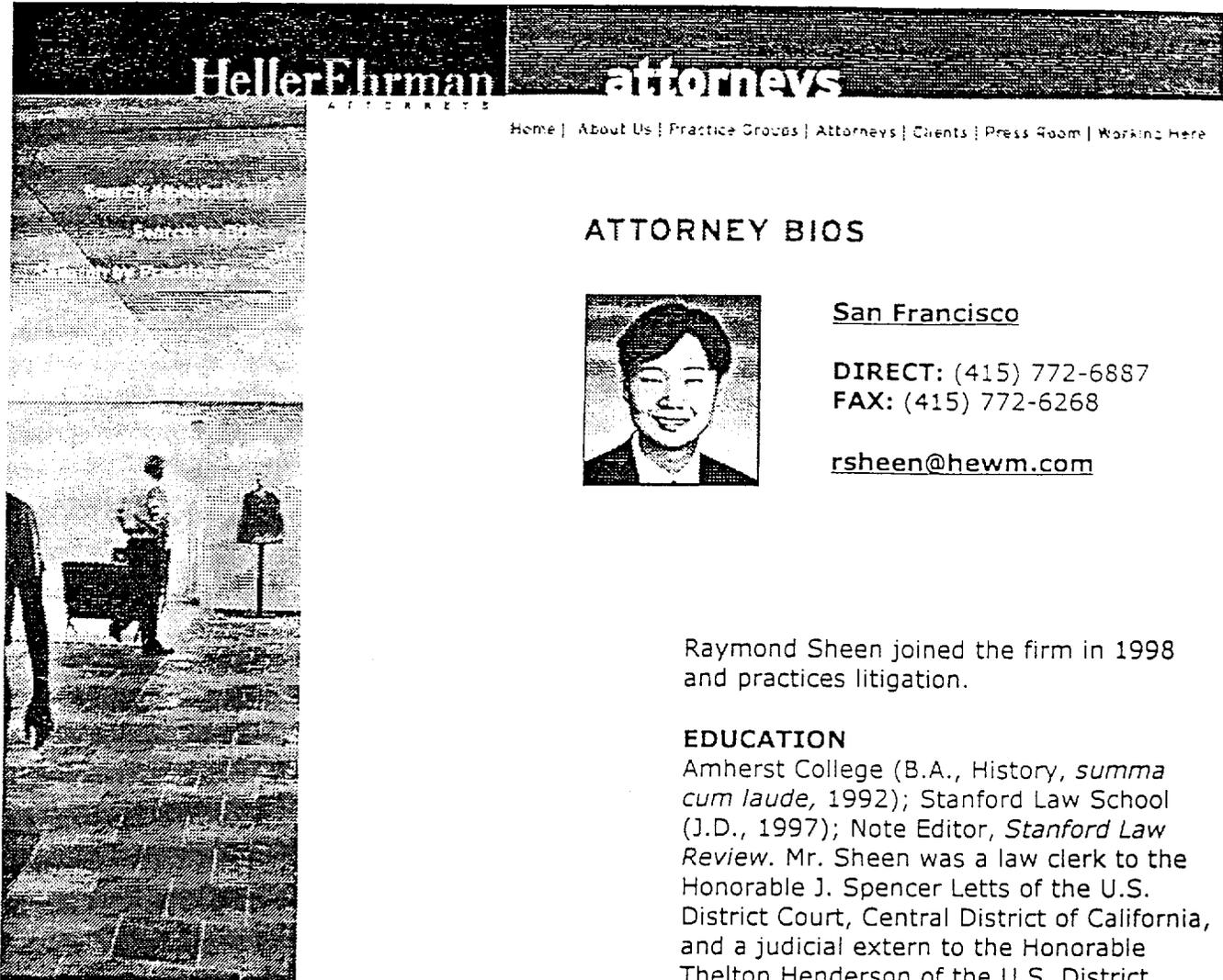
ARTICLES

Wow, Have You Got Mail *Risk Management Magazine* - April 2001

Insurance Coverage E-Bulletin May 2000
Insurance Coverage E-Bulletin - June 1, 2000

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rsheen@hewm.com

Raymond Sheen joined the firm in 1998 and practices litigation.

EDUCATION

Amherst College (B.A., History, *summa cum laude*, 1992); Stanford Law School (J.D., 1997); Note Editor, *Stanford Law Review*. Mr. Sheen was a law clerk to the Honorable J. Spencer Letts of the U.S. District Court, Central District of California, and a judicial extern to the Honorable Thelton Henderson of the U.S. District Court, San Francisco, California.

MEMBERSHIPS

State Bar of California.



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jstelck@hewm.com

Jane E. Stelck, Special Counsel

Energy

Jane Ellen Stelck joined the firm in 1997 and practices energy law.

EXPERIENCE

Ms. Stelck has been engaged in the regulation of the natural gas industry since her employment at the Federal Energy Regulatory Commission (FERC). In the Office of Pipeline and Producer Regulation, she worked in the tariff branch where she analyzed purchased gas adjustment filings made by interstate pipeline companies. She also acted as an advisor to trial staff in the preparation of cases involving gas cost disputes and participated in settlement negotiations with trial staff and industry. After moving to the Office of General Counsel, she participated in the early stages of pipeline compliance with the Commission's groundbreaking rule in Order 436.

In private practice, Ms. Stelck's energy practice focused primarily on matters relating to FERC and other energy-related issues, representing domestic and Canadian producer interests, seeking better access to natural gas supplies and interstate pipeline capacity. Her representation has included the preparation of testimony, brief writing, and appellate practice. Her practice has also included other areas of administrative,

EDUCATION

University of Illinois (B.A., with honors, 1972); University of Illinois (M.A., History, 1973); American University School of Law (J.D., 1978).

MEMBERSHIPS

District of Columbia Bar; Federal Energy Bar Association.

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kstonebreaker@hewm.com

Koren W. Stonebreaker, Associate

[Antitrust & Trade Regulation](#)
[Intellectual Property Litigation](#)

Koren W. Stonebreaker joined the firm in 1999 and practices litigation.

EXPERIENCE

Prior to joining Heller Ehrman, Ms. Stonebreaker served as a judicial clerk in the United States Court of Appeal for the Ninth Circuit, for the Honorable Ferdinand Fernandez, from September to November 1999. Ms. Stonebreaker was also a Summer Associate at Heller Ehrman in 1998.

EDUCATION

Santa Clara University (B.S., Phi Beta Kappa, Political Science, *magna cum laude*, 1996); Hastings College of the Law (J.D., *magna cum laude*, 1999-2nd in class), Thurston Honor Society, Order of the Coif, Articles Editor, *Hastings Law Journal*, American Jurisprudence Awards (Corporations, Remedies, Contracts, Criminal Law, Constitutional Law and Wills and Trusts).

MEMBERSHIPS

American Bar Association; State Bar of California; National Asian Pacific American Bar Association.

REPRESENTATIVE ENGAGEMENTS

- *In Re Visa Check/MasterMoney*

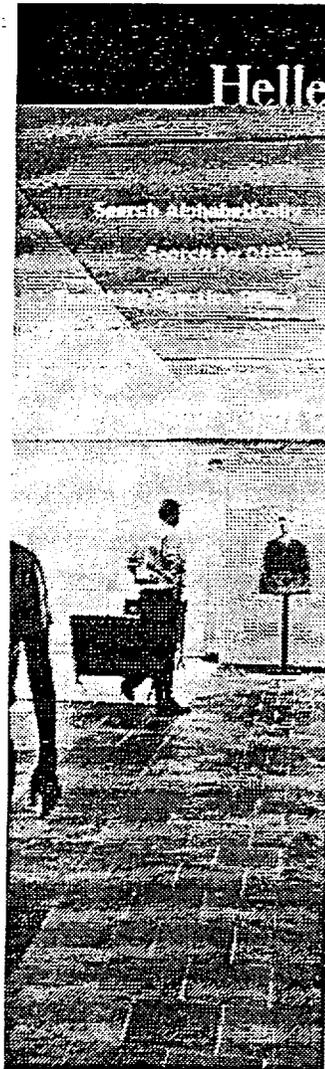
- *In re Visa Check/MasterMoney Antitrust Litigation* (antitrust class action).
- *Symantec Corp. v. Munib Dogic et. al.* (cybersquatting, trademark, and copyright action).
- *LePage's v. 3M Corp.* (antitrust appeal).
- *Conroy v. 3M Corp.* (antitrust class action).
- *Tortola et. al. v. 3M Corp.* (antitrust consolidated class action).

ARTICLES

"The Second Amendment and the Incorporation Conundrum: Towards a Workable Jurisprudence" *50 Hastings Law Journal 1, 177* - November 1998, Recipient of the Roger J. Traynor Award for best published student note.

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mstosser@hewm.com

Michael A. Stosser, Shareholder

Energy

Michael A. Stosser joined the firm in 1995. He is Co-Chair of the Energy Practice Group.

EXPERIENCE

Mr. Stosser represents interstate natural gas companies in all matters before the Federal Energy Regulatory Commission. He also represents natural gas marketers, electric power marketers, and electric utilities in federal and state administrative proceedings, and advises these clients on market restructuring and deregulation issues. In addition, Mr. Stosser represents and advises commercial, industrial and manufacturing energy consumers, including Fortune 100 companies, assisting the company in developing and implementing corporate-wide natural gas and electricity purchasing strategies. Mr. Stosser also works with clients on developing cogeneration and natural gas pipeline construction projects. He drafts and negotiates natural gas sale/purchase and transportation agreements, as well as steam and power sale/purchase and transmission agreements. Mr. Stosser has written several articles on natural gas and electricity restructuring and is a frequent speaker on energy issues.

Prior to joining Heller Ehrman, Mr. Stosser

was a partner in Arnold & Porter's Washington, D.C. office. Before entering private practice, Mr. Stosser served as Assistant General Counsel for Rulemaking and Environmental Law in the Office of General Counsel of the Federal Energy Regulatory Commission, and as an attorney in the General Counsel's Pipeline Certificate

EDUCATION

California State University, Los Angeles (B.A., *with honors*, 1974); Southwestern University School of Law (J.D., *with honors*, 1978).

MEMBERSHIPS

District of Columbia Bar; Energy Bar Association; American Bar Association; State Bar of California.

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hware@hewm.com

Hilary E. Ware, Associate

Antitrust & Trade Regulation
Intellectual Property Litigation

Hilary Ware joined the firm in 1998 and practices litigation.

EXPERIENCE

Prior to joining Heller Ehrman, Ms. Ware served as a law clerk to the Honorable Donald M. Middlebrooks of the United States District Court, Southern District of Florida, from 1997-1998.

EDUCATION

Wellesley College (B.A., Political Science & English, *magna cum laude*, Phi Beta Kappa, 1993); Harvard University Graduate School of Education (Ed.M, 1994); Harvard Law School (J.D., *cum laude*, 1997); Editor and Executive Board Member, *Harvard Civil Rights - Civil Liberties Law Review*, 1995-1997.

MEMBERSHIPS

American Bar Association (Vice-Chair, Antitrust & Trade Regulation Subcommittee of Business & Corporate Litigation Committee of Business Law Section; Member of Litigation Section) State Bar of California, District of Columbia Bar.

REPRESENTATIVE ENGAGEMENTS

- In Re Visa Check/Master Money Antitrust Litigation (antitrust class

Antitrust Litigation (antitrust class action).

- U.S. v. Visa U.S.A Inc., et al (antitrust action)
- LePage's Inc. v. 3M (antitrust 3rd circuit)
- Tortola v. 3M, et al (consolidated California State antitrust actions)

ARTICLES

Supreme Court Denies Certiorari in CSU v. Xerox - March 31, 2001

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Kate K. Alderman
Law Librarian, San Francisco

EXPERIENCE

Kate Alderman joined the firm in 1987. Her duties include performing legal, business, technical and scientific research using print materials, software based applications, and resources on the World Wide Web, as well as consulting with attorneys and paralegals performing their own research. Her responsibilities also include participation, with librarians in other Heller Ehrman offices, in the creation, publication and maintenance of research and information resources on the firm's Intranet and participation in the selection of new information resources for the library. Prior to joining Heller Ehrman, Ms. Alderman served as Assistant Counsel of the Regents of the University of California during the late 1970's.

EDUCATION

University of California at Berkeley (M.L.S. 1987; J.D. 1974); Smith College (B.A. 1964).

Douglas E. Cathel

Litigation Paralegal, Washington D.C.

EXPERIENCE

Douglas Cathel joined the firm in 2001. He has performed a wide variety of paralegal duties, including trial preparation, all phases of discovery including large document production and organization, extensive legal research projects, cite checking and preparation of documents. He has had a heavy emphasis in FERC-related litigation. Prior to joining Heller Ehrman, Mr. Cathel was a paralegal at Cohen, Milstein, Hausfekkl & Toll from 1999 to 2001 and Miller & Van Eaton from 1998 to 1999.

EDUCATION

George Washington University (B.A. Political Science 1978)

Elita Chang

Paralegal, San Francisco

EXPERIENCE

Elita Chang joined the firm in August 2000. Her duties include providing database and client extranet support, motion work, case organization and document production organization and monitoring. She is proficient in Microsoft Word, Excel Powerpoint and Access, Adobe, DB Textworks, LegalKey, Custom Call Data Systems, Goldmine, Elementary HTML and Great Plains, Printmaster, Pega, Investar, Sungard, Vantive, NCIS and Glenayre.

EDUCATION

San Francisco State University: Psychology B.A. 2001

Ann Constantine
Senior Paralegal Manager, Washington, D.C.

EXPERIENCE

Ann Constantine joined the firm in 2000. She oversees the paralegal staff in Heller Ehrman's Washington, D.C., Madison, Wisconsin and Montgomery County offices. Prior to joining Heller Ehrman, Ms. Constantine worked as a legal secretary and paralegal at Baker & McKenzie; Pond, North & Hugo, P.C.; Tilly & Graves, P.C.; Law Offices of O'Brien & Harrington; and Jones, Clifford.

EDUCATION

San Francisco Law School (J.D. 1999); City College of San Francisco (Paralegal Certificate 1995); Parsons School of Design (B.F.A. 1981).

Joanne Contino
Litigation Paralegal, Los Angeles

EXPERIENCE

Joanne Contino joined the firm in 1989. She has assisted in all phases of trial preparation and trial proceedings; participated in and supervised most aspects of discovery including large volume document management, gathering of documents from clients' offices, preparation of documents for production, databasing and coding; drafted deposition notices, subpoenas and document requests; coordinated deposition scheduling and location arrangements throughout the country; created and maintained deposition tracking logs; prepared deposition summaries; reviewed documents for content and for privilege; drafted privilege logs; conducted light legal research; cite-checked and proofed briefs; and assisted with organization, filing and service of motions and supporting documents. Prior to joining Heller Ehrman, Ms. Contino was a litigation paralegal at Tuttle & Taylor from 1986 to 1989

EDUCATION

UCLA Extension, Attorney Assistant Training Program (Certificate in Litigation 1986);
University of San Diego (B.A. Music 1971).

Romulo C. Fernandez

Case Support Coordinator

EXPERIENCE:

Romulo Fernandez started in 1998 as a Case Support Coordinator at Heller Ehrman. His duties include arranging and organizing case routing and internal communication processes, reviewing and handling vendor invoices and managing case files.

EDUCATION:

Manila, Phillipines BSBA (Banking and Finance)

Michele Holzer
Litigation Paralegal, Seattle

EXPERIENCE

Michele Holzer joined the firm in 2001. Her duties include reviewing, organizing and maintaining all project documents including correspondence, contracts agreements, FERC documents, permits and memoranda; monitoring the FERC web site for daily releases; preparing due diligence documents for energy projects; maintaining project information such as project timelines, contract schedules, and contact information; designing and maintaining project extranet sites; and drafting correspondence. Prior to joining Heller Ehrman, Ms. Holzer was a corporate paralegal at Landerholm, Memovich, Lansverk & Whitesides.

EDUCATION

Edmonds Community College (Advanced Paralegal Certificate 1998); University of Washington (B.A. 1995).

Janna Leasy
Senior Support Assistant, Portland

EXPERIENCE

Janna Leasy joined the firm in 2000. She serves both as a secretary and senior support assistant to energy litigation attorneys in regulatory matters before FERC and various state public utility commissions; manages case files; performs online research; and drafts pleadings and other documents. Prior to joining Heller Ehrman, Ms. Leasy was an office manager at LeBoeuf, Lamb, Greene & MacRae, L.L.P., and a legal secretary at Stoll Stoll Berne Lokting & Shlachter, P.C., Underwood, Norwood & Hiefield, Martin, Bischoff, Templeton, Langslet & Hoffman, and Ransom, Blackman & Simson.

EDUCATION

Portland State University (B.S. Management and Marketing, 1996); Portland Community College (A.S. Legal Assistant 1984).

David Luster
Senior Litigation Paralegal, San Francisco

EXPERIENCE

David Luster joined the firm in 1984. He is responsible for managing all aspects of discovery and preparation for litigation matters and has assisted in all aspects of case organization, discovery, motion practice and trial.

EDUCATION

University of San Diego (Legal Assistant Program 1984); University of Missouri (B.A. 1982).

Natalie McLaughlin
Litigation Paralegal, Washington, D.C.

EXPERIENCE

Natalie McLaughlin joined the firm in 2000 and assists in various aspects of the firm's litigation practice, with a focus on energy-related matters. Prior to joining Heller Ehrman, Ms. McLaughlin was a legal assistant in the energy group at LeBoeuf, Lamb, Greene & MacRae, L.L.P. where her duties included preparing and filing energy-related documents at FERC; monitoring FERC and U.S. Court of Appeals web sites; and organizing and maintaining indexes and docket books for energy-related proceedings.

EDUCATION

Smith College (B.A. Biology 1997)

Cheryl Morris
Litigation Paralegal, Seattle

EXPERIENCE

Cheryl Morris joined the firm in 1999. Her duties include both secretarial and legal assistant tasks for the Seattle Office's Energy Department. She maintains files for clients through docketing and file management, organization of files and documents, indexing documents, and direct management and coordination of large documents. Ms. Morris also conducts on-line research and supports and coordinates filings with regulatory agencies such as FERC. She drafts correspondence, pleadings, discovery and memoranda and maintains client databases. Prior to joining Heller Ehrman, Ms. Morris worked as a paralegal and legal secretary at Lee, Smart, Cook, Martin & Patterson for eight years.

EDUCATION

Cascade Business College (Legal Assistant Course 1989).

Nneka Nwosu
Litigation Paralegal, Washington, D.C.

EXPERIENCE

Nneka Nwosu joined Heller Ehrman in 2001 and assists in all aspects of the firm's litigation practice, including case organization, discovery, motion work and trial. She has used her Economics training in Corporate practice to gather and collate information for expert review. She is proficient in Microsoft Excel, Quattro Pro, LegalKey, Microsoft Word, Wordperfect, CaseStream, Pacer, Westlaw and LEXIS. Prior to joining Heller Ehrman, Ms. Nwosu held positions in accounting and marketing.

EDUCATION

University of Maryland, (B.A. Government and Politics 2000; B.A. Economics expected 2001).

Clare T. O'Hoyne

Senior Litigation Paralegal, San Francisco

EXPERIENCE

Clare O'Hoyne joined the firm in May 1995. She has seventeen years experience in all phases of complex litigation and works on a wide range of cases, with clients from the banking and high-tech industry as well as various non-profit environmental organizations. She is proficient in Microsoft Word, WordPerfect, MacWindows, MicroSoft Excel, DB Textworks, LEXIS, Westlaw, ProForma, DeltaView, Live-Note and Summation.

EDUCATION

San Francisco State University (B.A. philosophy 1986)

Shannon Stewart
Research Assistant, Washington, D.C.

EXPERIENCE

Shannon Stewart joined the firm in 2001. As research assistant for the Washington, D.C., Montgomery County, and Madison offices, she is responsible for database searching and other research. She is proficient in Microsoft Word, Excel and Powerpoint, Adobe PhotoShop, Microsoft Front Page, Adobe Pagemaker, Adobe Acrobat, PRality, LEXIS and Westlaw.

EDUCATION

California State University, Dominguez Hills (B.A. Communications 1996).

M. Brett Stone
Litigation Paralegal, San Francisco

EXPERIENCE

Brett Stone joined the firm in 2000. His duties include organizing case files; overseeing document production and review; maintaining client extranet; and completing general administrative tasks. Mr. Stone has participated in various training programs at Heller Ehrman, including attorney-client and work product privilege doctrine, conflict identification and resolution, cite-checking of legal memorandum and briefs and electronic legal research. He is proficient in Adobe Acrobat, Microsoft Word, Legal Key (a file indexing and tracking system), DB Textworks (database application) and Microsoft Excel.

EDUCATION

University of Virginia (B.A. Anthropology/Archeology 1999).

Peter M. Tempelis
Litigation Paralegal, Washington, D.C.

EXPERIENCE

Peter Tempelis joined Heller Ehrman in 2001 and has assisted in numerous aspects of the firm's litigation practice. He is proficient in Microsoft Word, Excel, Front Page, Power Point, ClarisWorks, AppleWorks, Adobe Illustrator 9, CaseStream, Pacer, LEXIS and Westlaw. Prior to joining Heller Ehrman, Mr. Tempelis was a legal counsel intern for the Governor of Wisconsin.

EDUCATION

University of Wisconsin (B.A. Political Science 2001).

Ann Wellington
Litigation Paralegal, San Francisco

EXPERIENCE:

Ann Wellington joined Heller Ehrman in 1993. Since being at Heller she has worked primarily on product liability, construction defect, insurance, CPUC, and pro bono cases. She has experience with trial assistance, on the construction defect case, as well as assisting in preparation for trial. She has also assisted with a hearing before the CPUC for a telecommunications matter, and the preparations for that, including witness and exhibit preparation. She has much experience with file maintenance, court filings, both on and off-site document reviews, preparation of privilege and redaction logs, preparing for depositions; legal research and factual research.

Prior to joining Heller Ehrman, Ann worked for 5 + years as a document coder on large litigation cases at Farella, Braun & Martel (1986 – 1991), and following that did temporary paralegal work at several Bay Area law firms (1991 – 1993) while going to school.

EDUCATION:

City College of San Francisco, selected courses from the Paralegal Studies Department (Introduction to Legal Assisting, Torts, Civil & Criminal Evidence, Family Law – between approx. 1989 - 1991); U.C. Santa Cruz (BA in Art, 1981).

Ann C. Whitehead
Bankruptcy Paralegal, San Francisco

EXPERIENCE

Ann Whitehead joined the firm in 1988, and has worked primarily with members of the bankruptcy group. Her responsibilities include preparation of bankruptcy schedules, ordinary motions, and operating reports; maintenance of complex case files; contact with clients, creditors and court personnel; and knowledge of federal and local bankruptcy rules and procedures. Prior to joining Heller Ehrman, Ms. Whitehead was a paralegal at Dinkelspiel & Dinkelspiel, specializing in bankruptcy and probate.

EDUCATION

Ms. Whitehead has completed courses at West Chester State College and San Francisco State University, in addition to completing numerous other paralegal and bankruptcy-related courses.