



## PAUL S. CHAN

### PRINCIPAL

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### EDUCATION

Harvard Law School, J.D., *cum laude*, 1995

Harvard University, A.B., *magna cum laude*, 1991

## OVERVIEW

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Paul S. Chan is the managing principal of Bird Marella. His practice focuses on the trial and arbitration of complex business disputes, including commercial fraud, class action, securities, and intellectual property litigation. Paul also represents companies and individuals in regulatory and parallel civil/criminal investigations. A graduate of Harvard Law School and Harvard College, Paul has particular expertise litigating cases involving the False Claims Act, civil RICO statute, unfair competition and theft of trade secrets. His clients include Fortune 500 corporations, major financial institutions, and emerging technology companies.

Paul has extensive trial experience. In over 25 years of practice, he has successfully tried numerous jury trials, bench trials, and binding arbitrations before both commercial and securities arbitration tribunals. He has been recognized as the "Trial Lawyer of the Year" by the Century City Bar Association, one of the "500 Leading Lawyers in America" by *Lawdragon*, the "Lawyer of the Year: Securities" in Los Angeles by "Best Lawyers in America," a "Southern California Super Lawyer" by *Los Angeles Magazine*, and (previously) one of the "Best Lawyers Under 40" by the National Asian Pacific American Bar Association. He is also the former President of the Southern California Chinese Lawyers Association; the Chairman of the Board of Directors of Asian Americans Advancing Justice – Los Angeles; and has repeatedly been named among the "Most Influential Minority Attorneys" by the *Los Angeles Business Journal*.

## EXPERIENCE

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Lead counsel for mobile virtual network provider TruConnect, the fourth largest and fastest growing wireless Lifeline company in the United States, in a federal False Claims Act (FCA) lawsuit filed in the U.S. District Court for the Central District of California. Won dismissal of all federal and state FCA claims, without leave to amend. The relators' allegations threatened close to a half-billion dollars in damages.

Trial counsel for JM Eagle, the world's largest manufacturer of plastic pipe products, in a federal False Claims Act litigation pursued by over 45 intervening states and municipalities and a parallel class action involving claimed damages of over \$2 billion. Achieved complete defense decision on nine-figure damages claim relating to non-compliant PVC pipe. Successfully convinced the court to reduce claimed damages from \$58 million to \$2 million before the jury was ultimately unable to agree that any damages were owed, leading to a mistrial. Subsequently obtained judgment notwithstanding the verdict in favor of the client.

Trial counsel for a large Taiwanese conglomerate and other lead defendants in a 34-defendant civil RICO, fraud and alter ego action, stemming from the alleged "bust out" of flat screen television company Westinghouse Digital Electronics. Plaintiff sought over \$80 million in trebled RICO damages. After successfully obtaining summary adjudication of certain claims and procuring victories on several key motions *in limine* on the eve of trial, the case was successfully resolved for a nominal amount.

Trial counsel for the writers and creators of the television program "Will & Grace" in an entertainment accounting jury trial against NBC Studios. Plaintiffs alleged NBC Studios failed to license "Will & Grace" for fair market value, failed to pay proper profit participations, and engaged in fraud and self-dealing by licensing the program to its corporate parent, the NBC network. After a three month jury trial, the jury returned a \$49.5 million verdict in favor of the clients.

Counsel for Herbalife International in two parallel RICO class actions in California and Florida based upon alleged misrepresentations concerning attendance at Herbalife events leading to financial success.

Lead counsel for a global non-profit provider of AIDS/HIV healthcare, prevention services, and testing, in a high-profile False Claims Act lawsuit seeking eight-figure damages. Plaintiffs/relators alleged violations of the federal anti-kickback laws governing payments for patient referrals. Successfully moved to dismiss virtually all claims in the relators' complaint, leaving only a very narrow category of "claims for payments" relating to literally two patients, with very modest accompanying exposure. Case resolved favorably thereafter.

Lead counsel for a prominent California law firm in a False Claims Act case of first impression, alleging the firm "fraudulently" induced its former client, a public agency, to disburse several million dollars in public funds. Paul's team aggressively litigated the relator's standing to pursue the case, and obtained a writ of mandate from the California Court of Appeal finding that the relator had a conflict of interest that precluded her from participating in agency decisions relating to the lawsuit. After filing summary judgment motions, then persuading the Court of Appeal to stay all trial court proceedings, Bird Marella was able to settle the case for a small fraction of the public funds at issue.

Represented former head of the luxury hotel division of Starwood Hotels and then Hilton Hotels, in a federal pre-indictment criminal investigation in the Southern District of New York involving the alleged theft of trade secrets and computer fraud, as well as a parallel federal civil case in the Southern District of New York. Helped obtain a no charge decision from the United States Attorney's Office, and a confidential resolution of the civil action.

Litigation counsel for Mattel, Inc. Successfully prosecuted numerous trade secret theft, trademark, and copyright infringement actions involving the Mattel, Barbie and other iconic brands against competitors in the toy, stationary, cosmetics and apparel, and technology industries.

Litigation counsel for 99 Ranch Supermarkets, the largest chain of Asian-foods grocery stores in the United States. Represent the company in a variety of litigation matters including employment defense and intellectual property disputes.

Trial counsel for Charles Schwab & Co. in numerous trade secret misappropriation actions involving theft of customer information and client solicitation by a competitor. Pursue temporary and permanent injunctive relief actions against the company's competitors.

Successfully represented a senior scientist at Bayer Healthcare in parallel civil and criminal actions involving alleged violations of the federal Computer Fraud and Abuse Act and the Economic Espionage Act. Obtained a no charge decision in the criminal investigation and civil action settled on favorable terms thereafter.

Litigation counsel for KB Home and related entities in a putative state-wide class action relating to alleged mortgage and appraisal fraud in connection with the sale of residences, and a federal derivative litigation relating to Countrywide Financial. Case settled on favorable terms following successful opposition to class certification motion.

Trial counsel for Cyntron Payroll Solutions, a leading provider of payroll software solutions, in a two-week jury trial involving eight-figure damages claims for breach of fiduciary duty, defamation, and intentional infliction of emotional distress brought by the company's former president. Obtained a complete defense verdict.

Trial counsel for Mooney Farms, the nation's largest producer of sun-dried tomato products, in a jury trial concerning the fraudulent sale of thousands of gallons of adulterated olive oil, following a recall conducted by the Canadian Food & Drug Administration. Obtained a substantial settlement for the client midway through trial.

Lead counsel for Honeywell Inc. in a breach of contract, negligence, and fraud action stemming from alleged delays in the construction of a Beverly Hills surgical center. Successfully obtained summary judgment on all claims and order affirming the summary judgment on appeal.

## HONORS & AWARDS

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California Litigation Star, *Benchmark Litigation*, 2022

Local Litigation Star, *Benchmark Litigation*, 2022

Best Lawyers in America, Lawyer of the Year: Securities, 2020

500 Leading Lawyers in America, *Lawdragon*, 2019-2020

Trailblazer Award, Southern California Chinese Lawyers Association, 2019

Most Influential and Top Minority Attorneys, *Los Angeles Business Journal*, 2018-2020

Trial Lawyer of the Year, Century City Bar Association, 2018

Elite Boutique Trailblazers, *National Law Journal*, 2018

Best Lawyers in America, Commercial Litigation; Criminal Defense: White-Collar; Litigation: Securities, 2016-present

Southern California Super Lawyers, *Los Angeles Magazine*, 2012-present

Best Lawyers Under 40, National Asian Pacific American Bar Association (NAPABA), 2003

## **AFFILIATIONS**

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Former President, Southern California Chinese Lawyers Association (SCCLA)

Chairman of the Board of Directors, Asian Americans Advancing Justice – Los Angeles

Former Member, Executive Committee, Litigation Section of the California State Bar

Former Member, Editorial Board, *California Litigation*

Member, California Minority Counsel Program

Member, Federal Bar Association

Former Member, Los Angeles County Bar Association Foundation

## **PUBLICATIONS**

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Co-Author, “The Changing Scope of Arbitrability and Appealability,” *National Law Journal*, August 2019

Author, “Economic Espionage Cases Continue to Rise,” *Daily Journal*, May 2019

Author, “The Rise in Economic Espionage Cases Involving China,” *Bloomberg Law*, May 2019

Co-Author, “FCA Claims After Escobar,” *Daily Journal*, January 2019

Co-Author, “When Civil Litigants Face Criminal Proceedings,” *Law360*, January 2019

Co-Author, “The Far-Reaching New Domestic Injury Rule Under Civil RICO,” *Law360*, June 2017

Author, “Liable Labels,” *Los Angeles Lawyer Magazine*, February 2015

Author, “Litigating Parallel Civil and Criminal Cases,” *California Litigation*, Vol. 24, November 2011

Co-Author, “Access Denied: The Impact of the Computer Fraud and Abuse Act on Employee Mobility,” *Los Angeles Lawyer Magazine* (Cover feature, February 2006); also published in *The Computer and Internet Lawyer*, June 2006

Author, "The Hazards of Litigating in the Press," *California Lawyer Magazine*, December 2002

## EVENTS

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Panelist, "When Civil Cases (Almost) Go Criminal – Litigating Quasi-Criminal Civil Claims," Association of Corporate Counsel, June 2021

Interviewee, "In Conversation With Paul S. Chan of Asian Americans Advancing Justice," LA This Week (LA CityView35), April 2021

Speaker, "False Claims Act Enforcement: Defense Strategies in 2020," Knowledge Group CLE Webcast, August 2020

Speaker, "AseraCare and the Future of Medical Necessity Cases," Federal Bar Association Qui Tam Conference, February 2020

Speaker, "The Use of Cal. Bus. & Prof. Code 17200 in CA Class Actions," Bridgeport 2020 Consumer Class Action Conference, January 2020

Speaker, "False Claims Act and the Implied Certification Doctrine: Navigating Potential Implications on Your Firm," Knowledge Group CLE Webinar, October 2019

Speaker, "The Rise in Economic Espionage Cases Involving China," Intellectual Property Owners Association Webinar, August 2019

Interviewee, "Chinese Espionage: Company Trade Secrets," KFI-AM Radio, January 2019

Speaker, "Post-Escobar Materiality Issues," Federal Bar Association Qui Tam Conference, January 2019

Speaker, "Ethics – Trouble Spots in FCA Litigation," CLE International 2nd Annual Qui Tam Conference, October 2014

Speaker, "Whistleblowers and the False Claims Act: What You Need to Know," Practising Law Institute (PLI), 2012

Speaker, "Taking Aim at the Foreign Corrupt Practices Act," National Asian Pacific American Bar Association Regional Conference, 2012

Speaker, "The Tricks and Traps of Trade Secret Litigation," California State Bar Litigation Section Webinar, June 2011

Speaker, "Cyber Crimes in the New Economy," National Asian Pacific American Bar Association Regional Conference, 2009

Speaker, "Use of the Computer Fraud and Abuse Act in Employment Cases," Annual Conference of the Labor and Employment Section of the California State Bar, 2006

## **FORMER POSITIONS**

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Associate, Quinn Emanuel Urquhart Oliver & Hedges, 1996-1999

Law Clerk to the Hon. Rudi M. Brewster, U.S. District Court, Southern District of California, 1995-1996

## **ADMISSIONS**

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California, 1996