



Michael Tubach

Partner

San Francisco

D: +1-415-984-8876

mtubach@omm.com

Michael Tubach focuses on civil litigation and white-collar criminal defense. He represents companies and individuals in criminal, antitrust, securities, and class action disputes and internal investigations. His trial experience includes over 35 trials and 20 appellate arguments.

Michael is recognized by numerous legal-ranking guides including *Chambers Global*, *Chambers USA*, *Legal 500*, *PLC Which Lawyer*, and *Best Lawyers in America*, which quote sources who note that Michael is “an expert in white-collar litigation and antitrust and often represents clients in cases involving a combination of both areas, such as criminal cartel matters.” Michael is praised for his “deep and thorough understanding of antitrust law, which is coupled with a patient and proactive work ethic,” and his “reputation as a top-flight trial lawyer for criminal antitrust litigation and cartel work.” For more than ten years, he has been named a Northern California “Super Lawyer” and a leader in the field of White Collar Criminal Defense in a survey published in *San Francisco* magazine.

In addition, Michael has served as managing partner of the Firm’s San Francisco office and as Chair of O’Melveny’s firmwide Pro Bono Committee. He served as President of the Bar Association of San Francisco (7,500+ members) in 2016.

Experience

- Counsel for **Jayson Penn** in *United States v. Jayson Penn, et al*, alleging antitrust violations in the broiler chicken industry

Admissions

Bar Admissions

California

District of Columbia

Court Admissions

US District Court, Central, Eastern, Northern, and Southern Districts of California

US District Court, Eastern and Western Districts of Michigan

US Court of Appeals, Fifth, Sixth, and Ninth Circuits

US Court of Appeals, District of Columbia

Education

University of California at Berkeley, J.D., 1989: Order of the Coif; Executive Editor, *California Law Review*

University of California at Berkeley, B.A., 1985: with distinction

- Counsel for **Leoni Wiring Systems, Inc.**, a manufacturer of automotive wire harnesses, in Department of Justice investigation and numerous related civil class actions
- Counsel for **a leading technology company** in an antitrust class action relating to alleged agreements among seven companies not to cold-call each other's employees
- Counsel for **Espar Inc.** in a Department of Justice criminal investigation and related civil class actions regarding parking heaters in commercial vehicles
- Counsel for **Eberspaecher** in class actions relating to alleged price-fixing in automotive exhaust systems
- Counsel for **ROHM Co. Ltd.** in class action litigation arising out of criminal investigations regarding capacitors and resistors
- Counsel for **MAHLE Behr** in class actions relating to alleged price-fixing in automotive air conditioning systems
- Counsel for **Hill's Pet Nutrition** (a Colgate-Palmolive subsidiary) in class actions alleging price-fixing among manufacturers of pet foods
- Counsel for **AU Optronics** in connection with its antitrust compliance program and court-ordered monitoring following its conviction for price-fixing
- Counsel for **SK hynix Inc.** in industry-wide criminal antitrust investigations and numerous related civil actions into the Dynamic Random Access Memory (DRAM), Static Random Access Memory (SRAM), and Flash markets
- Counsel for **eBay** in purported class action by sellers alleging monopolization and attempted monopolization related to the online auction and online payment business
- Counsel for **Hertz Corporation** in antitrust class actions relating to the California Travel & Tourism Commission (CTTC)
- Counsel for **DeGussa Corp.** (now **Evonik**) in criminal antitrust investigations and related civil actions
- Counsel for **Chemtura Corporation** (formerly **Crompton**) in various federal and state civil actions alleging price-fixing across an array of chemical products
- Counsel for **Honeywell International, Inc.** in antitrust class action alleging monopolization in certain alleged thermostat markets
- Counsel for **Capital One Financial Corporation** in purported class action alleging conspiracy to fix over-limit and late payment fees
- Counsel to a nonferrous metals producer in an investigation by the Department of Justice into potential antitrust violations; investigation closed with no charges filed
- Counsel for numerous individuals and corporations in criminal antitrust investigations
- Counsel for **JHL Biotech** in civil and criminal proceedings relating to alleged theft of trade secrets regarding biologics
- Counsel for a microwave telecommunications company in an internal investigation relating to a former employee's alleged bribery
- Counsel for **Super Micro Computer, Inc.** in criminal investigation relating to export of computer components to Iran
- Counsel to private company relating to export control issues involving goods manufactured in China

- Counsel for individual in criminal matter involving trans-shipment of U.S. goods through Hong Kong to Iran
- Counsel for Special Committee of Board of Directors of Mercury Interactive relating to dating of stock options
- Counsel for **Ford Motor Company** in multiple consumer class actions, including *Chamberlan v. Ford Motor Company*, brought on behalf of 90,000 California owners of Ford vehicles alleging certain defects
- Counsel for several former CEOs of public companies in various criminal actions, SEC enforcement actions, securities class actions, and derivative actions
- Counsel for **Golf Trust of America** in fraud and breach of contract arbitration, resulting in \$6.7 million award in favor of client
- Counsel for former **Young Presidents Organization** member in criminal and SEC enforcement action, resulting in dismissal of insider trading charges
- Counsel for **a leading technology company** in derivative litigation relating to High-Tech Recruiting and eBooks antitrust actions
- Counsel in multiple internal investigations representing companies and individuals

Corporate & Government Experience

- Assistant U.S. Attorney, U.S. Attorney's Office, Washington, D.C. (1991-97)

Professional Activities

Clerkships

- Honorable Stephen F. Williams, U.S. Court of Appeals, D.C. Circuit (1989-90)

President

- The Bar Association of San Francisco (2016)

Bristow Fellow

- Office of the Solicitor General (1990-91)

Lecturer

- First-Year Criminal Law, Fall 2002, University of California, Berkeley, Berkeley Law School
- Guest Lecturer, White Collar Criminal Exposure from the Perspective of a Convicted Criminal, Stanford Law School, Spring 2004
- Guest Lecturer, Defense and Prosecution of White Collar Crime, Berkeley Law School (multiple)
- Frequent panel speaker on various legal issues, including at the Practicing Law Institute, the Bar Association of San Francisco, and the State Bar of California's Antitrust Section

Recent Speaking Engagements

- "Do I Need a Lawyer? *An Individual Meets with Counsel*," 13th ABA/IBA International Cartel Workshop (February 2020)

- “Latest Developments in No-Poach Agreements,” California Lawyers Association Antitrust & Unfair Competition Section (January 2019)
- Speaker at Antitrust Judicial Law and Economics Institute at Berkeley (conference exclusively for federal judges) (October 2018)
- “Will Apple’s App Store Lead to the end of Illinois Brick?,” American Bar Association (ABA) and California Antitrust, UCL & Privacy Law Section (July 2018)
- “Rigging Bids on the Courthouse Steps: Real Estate Cartels,” American Bar Association (ABA) Section of Antitrust Law, San Francisco (July 2014)
- “Challenges in Conducting Internal Investigations,” Antitrust Law Conference, San Francisco (February 2013)
- “Trial Complexities in Antitrust Cases following Clayworth: Competing Views of Different Plaintiffs’ Groups and Defendants,” State Bar of California’s 21st Annual Golden State Antitrust & Unfair Competition Law Institute, San Francisco (October 2011)
- “Dealing with Enforcement Issues and Opportunities,” PLI Antitrust Institute 2011, San Francisco (February 2011)
- “Antitrust 2010,” PLI Antitrust Institute 2010, San Francisco (May 2010)
- ABA Spring Meeting 2010, Washington, D.C. (April 2010)
- “Defense Considerations in Cartel Investigations,” ABA Brown Bag Series - Litigating and Trying Complex Civil Antitrust Class Actions (January 2009)
- “Litigating Civil Cases With Parallel Criminal Investigations,” ABA Brown Bag Series - Litigating and Trying Complex Civil Antitrust Class Actions (October 2008)
- “Dealing with the Antitrust Enforcement Agencies: Discussion and Hypothetical,” PLI Antitrust Institute 2008, San Francisco (May 2008)

Recent Publications

- “Keeping the Cat in the Bag: Reviewing Foreign-Located Documents in United States Criminal Antitrust Investigations,” published for the ABA Spring Meeting 2010
- “eBay Wins Summary Judgment In Section Two Class Action,” O’Melveny Client Alert (2010)

Honors & Awards

- Recognized by *Best Lawyers*® 2021 for Antitrust Law, Litigation - Antitrust in San Francisco, CA; Michael has been listed in *Best Lawyers*® since 2013.
- Recognized as a leading lawyer in Antitrust: Cartel by *Chambers USA* (2016-2020) and *Chambers Global* (2016-2021), and in Antitrust in California by *Chambers USA* (2018-2020)
- Recognized as a leading lawyer in Litigation: White-Collar Crime & Government Investigations in California by *Chambers USA* (2018-2020)
- Recommended by *Legal 500 US* for Antitrust - Cartel (2016-2018, 2020), Antitrust - Civil Litigation/Class Actions (2015-2018), and Litigation: White-Collar Criminal Defense (2010, 2012-2013)
- Recommended in Competition (2016, 2018-2019); Investigations; Business Crime Defence - Corporates (2019) by *Who’s Who Legal*