



A large, stylized white-outlined number '21' is centered on a dark blue background. The background features a circular pattern of small, semi-transparent dots that transition through a spectrum of colors: yellow, orange, red, magenta, purple, blue, and green. These dots are concentrated along the top and bottom arcs of the circle, creating a dynamic, celebratory feel.

Unrelenting Challenges: Unyielding Commitment.
Helping Our Clients and Communities Meet the Moment

O'Melveny 2021

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LETTER FROM THE CHAIR

To Our Clients and Friends:

Looking back at another challenging year, my heart swells at all the good we've accomplished together—more proof that our people give their best when our clients and communities need us most. From momentous litigation victories and transformative transactions to concrete advances in the fight for social and racial justice, our hard work and collaborative spirit made a meaningful difference. The successes we've had bode well for 2022 and years to come.

LITIGATION ACHIEVEMENTS

As courts reopened in fits and starts, O'Melveny wasted no time ramping up, trying more than a dozen cases by year's end. We litigated in state and federal courts throughout the US in addition to handling arbitration proceedings around the world. The cases covered everything from technology, fashion, and financial services to food manufacturing, health care, and pharmaceuticals.

And we delivered results, with trial victories for Google in a patent case, Skechers USA in a trademark dispute, and Aon Hewitt Investment Consulting in an ERISA matter, among others.

In one of the most complex—and crucial—legal battles of our time, we continue to serve as lead litigation counsel for Johnson & Johnson in more than 3,000 opioid-related lawsuits, notching two of the firm's all-time great victories in little more than a week. In November, we scored the first trial win for any drug company in the opioid litigation when an Orange County Superior Court judge rejected a US\$50 billion attempt by some of California's largest municipalities (including Los Angeles and Orange counties) to expand public-nuisance laws to address alleged opioid-related harms.

Only a few days later, our appellate team's strength was also on full display, as the Oklahoma Supreme Court reversed a trial court's ruling requiring J&J to pay US\$465 million for nuisance abatement—already a fraction of the US\$17 billion the state had sought—and rejected the state's cross-appeal seeking to multiply that amount to more than US\$9 billion. In a 5-1 decision, the Oklahoma High Court agreed with our argument that the lower court had wrongly interpreted the state's public-nuisance law.

The American Lawyer took notice, selecting O'Melveny as the winner of its Product Liability Litigation Department of the Year contest. A December article, "[Tried and True](#)," noted: "With the world watching, O'Melveny's products liability litigators get clients the results they need." The piece highlighted our willingness to take high-stakes, high-profile cases to trial, adding: "[O'Melveny] lawyers aren't shy about the limelight. They understand that success in the court

of public opinion is an increasingly important part of full-service representation. And they try cases that others might rather avoid.”

CORPORATE ACHIEVEMENTS

Our corporate lawyers also had another banner year, working creatively and collaboratively with our clients to help them preserve value, capitalize on opportunities, and achieve their strategic objectives.

We helped clients ride a wave of roaring dealflow in 2021, closing 300 global M&A transactions, with an aggregate deal value of more than US\$100 billion. That included advising South Korea-based DL Chemical, the world’s largest producer of polybutene, on its US\$2.5 billion acquisition of Texas-based specialty chemical manufacturer Kraton—a rare Korean acquisition of a US public company. Lighting up the market for special purpose acquisition companies (SPACs), we handled nearly a dozen go-public mergers, including billion-dollar-plus deals for investment firms Breakthrough Energy Ventures and Cycle Capital and auto tech startup Cepton Technologies.

Our capital markets and financing teams advised on US\$165 billion in transactions, among them more than a dozen IPOs, including nine offerings on the Hong Kong stock exchange—the largest of which, for biotech company Keymed, totaled US\$400 million. We also helped Macerich, one of largest owners and operators of shopping centers in the US, amend the financing on dozens of properties, pay off an existing US\$1.5 billion corporate credit facility, and arrange a new US\$700 million credit facility.

We shepherded a number of clients to fabled “unicorn” status—boosting their valuations north of US\$1 billion—including blockchain gaming platform Forte, intelligence company Alation, and software maker Splashtop. In all, we closed nearly 200 venture capital financings last year, raising more than US\$8.5 billion for emerging and growth companies.

And in true O’Melveny fashion, a multidisciplinary team of corporate lawyers, litigators, and staff across most of our offices helped the Commonwealth of Puerto Rico reach a historic milestone in its municipal debt restructuring, the largest in US history, when a federal judge in Puerto Rico confirmed a restructuring plan in January. With the island now on sound financial footing, the government can invest in economic development (including key industries such as tourism and pharmaceuticals), infrastructure, and social programs, and take other measures to jump-start the economy. The Commonwealth’s plan of adjustment also achieves an important public policy goal of the government: It preserves all accrued pension-benefit payments owed to public employees so that they can enjoy a dignified retirement. “It is the court’s hope and expectation,” Judge Laura Taylor Swain said after approving the restructuring, “that the confirmation of the plan marks the beginning of Puerto Rico’s brightest chapter.”

COMMUNITY INVOLVEMENT AND PRO BONO

In keeping with the values that guide our firm, we again demonstrated the same passion advocating for our pro bono clients and our communities as we do for our corporate clients.

In a landmark trial that began in November, an O'Melveny team has joined forces with the Public Interest Law Center of Philadelphia and the Education Law Center of Pennsylvania in a case that has exposed drastic inequities in how Pennsylvania allocates funds for its public schools. The suit against the State of Pennsylvania challenges its failure to provide for a "thorough and efficient system of public education" as required by the Pennsylvania Constitution. Poorer districts in particular lack some of the most basic educational necessities, leading to low proficiency rates in science, math, and English for their students. The four-month trial recently concluded with the judge's ruling expected in the coming months. Any decision is likely to be reviewed by the Pennsylvania Supreme Court.

Over the past year, O'Melveny devoted almost 70,000 hours of legal representation to pro bono matters. Other highlights include successfully arguing *Lange v. California*, a US Supreme Court case that strengthens protections against warrantless entries into the home. At issue is whether the police violated a California man's rights by pursuing him into his garage without a warrant for allegedly committing nothing more than traffic misdemeanors. Writing for the majority, Justice Elena Kagan said that "hot pursuit" doesn't justify allowing police to act quickly, without a warrant, in every case.

To safeguard reproductive rights, we served as co-counsel to the abortion provider in *Dobbs v. Jackson Women's Health Organization*, a Supreme Court case challenging a Mississippi law that bans abortion after 15 weeks of pregnancy. The case poses a serious threat to *Roe v. Wade* and access to abortion in large swaths of the United States. A decision is expected in June 2022.

We remain active in the Law Firm Antiracism Alliance, a group we co-founded to help stamp out racist laws and policies. As co-counsel alongside the National Lawyers Guild, we successfully challenged the constitutionality of an emergency curfew ordinance the City of Beverly Hills used to arrest demonstrators protesting police brutality following the deaths of George Floyd and other Black victims. Our client, a 22-year-old dancer with a spotless record and passion for advocacy, was zip-tied and taken to jail after kneeling quietly at a peaceful gathering. With the ordinance struck down as a First Amendment violation and the charges dropped, our client was able to go on with her life without the threat of a criminal record looming over her head.

Knowing that collective action makes for far-reaching impact, we also teamed up with our clients in 11 virtual pro bono clinics. O'Melveny attorneys and in-house counsel provided a range of free legal services, including expungements of criminal records and discharge upgrades for veterans, assistance with DACA/citizenship applications for immigrants, recoupment of past benefits for homeless individuals, advocacy in support of domestic violence victims, legal name and/or gender marker changes for transgender people, and conservatorships. Participating firm clients included Bank of America, Fannie Mae, Google, Kaiser Permanente, TransUnion, ViacomCBS, Wells Fargo, and Western Digital.

Our commitment to aid society's most vulnerable propelled us to the top five on *The American Lawyer's* "Pro Bono Scorecard," an especially impressive feat given the rise in pro bono contributions across our industry. We were also recognized for outstanding pro bono service in Asia, with both the Hong Kong government and Law Society of Hong Kong acknowledging our extensive efforts in the region.

FIRM CULTURE

Strengthening our distinctive firm culture—ensuring that O'Melveny remains a place where everyone feels comfortable, respected, and supported—took on added urgency in 2021.

Following a harrowing spike in violence against Asian Americans, we held several educational events: readings, videos, and podcasts on Asian American Pacific Islander histories, identities, and cultures. In an event that gathered alumni, clients, and O'Melveny employees, we hosted a conversation about confronting anti-Asian racism with Professor Russell M. Jeung, co-founder of Stop AAPI Hate. And we were proud to sign on as a Founding Partner of The Asian American Foundation.

Amid rising anti-Semitism and anti-Jewish violence, we hosted a presentation by Jonathan Greenblatt, CEO of the Anti-Defamation League. And I personally joined leaders from several other firms in raising our voices denouncing the pervasive demonization of Jews in the press, social media, and the streets.

We marked Pride Month, spotlighting the contributions of Justice Martin J. Jenkins, the first openly gay man (and third African American) to sit on the California Supreme Court. And our US offices closed to commemorate Juneteenth, an occasion to celebrate the end of slavery in the US and reflect on the work still needed to achieve the American promise of equality. In the lead-up to the holiday, we hosted a conversation with University of Mississippi historian Dr. Shennette Garrett-Scott, who provided an in-depth history of Juneteenth and its connection to today's racial justice efforts.

Events like these attest to what makes O'Melveny so special, qualities captured by "[Our DNA](#)," a three-part video series featuring firm alumni, clients, lawyers, and staff.

We know, of course, that culture is a work in progress, requiring us to do more to make the firm as diverse, equitable, and inclusive as it should be. While we remain focused on that imperative, we are proud of the progress we've made:

- 50% of the firm's four Department Chairs are lawyers of color
- Close to 50% of our Policy Committee—the firm's board—is diverse
- Over 70% of our US managing partners are diverse
- More than 70% of our homegrown partner promotions in the US over the past six years have been diverse

The American Lawyer highlighted gains in the number of women equity partners—as well as a big increase in the firm’s pro bono engagement—when ranking us #1 on its coveted “A-List,” the measure of the “best of the best” (and most well-rounded) firms. With that top ranking, O’Melveny has now made the A-List for each of the past 10 years, placing in the top 10 in nine of those years. Our sustained commitment to [advancing women litigators](#) also earned praise.

We once again received high marks in *Vault*’s Law Firm Associate Survey, claiming the #2 spot in the most important Quality of Life rankings: “Best Law Firms To Work For,” “Overall Diversity,” and “Best Summer Associate Program.” O’Melveny has achieved a top-five ranking in each of these *Vault* categories for six consecutive years (including #1 scores in all three categories in back-to-back years).

With the pandemic focusing everyone’s attention on the importance of well-being, we’ve responded with a range of new benefits that fit the demands of our flexible, hybrid work schedules. In a first for the legal industry, we partnered with exercise company Peloton to offer our US-based* employees free access to Peloton’s digital workout platform, a reduced monthly rate for the all-access membership, and subsidized prices for its exercise equipment. As *Reuters* observed: “The Peloton at-home fitness craze has hit Big Law,” with O’Melveny “leading the pack.” Teaming up with Peloton is just the latest example of O’Melveny’s “history of caring about their employees’ well being,” according to *Above the Law*. O’Melveny’s community of Peloton devotees even adopted their own hashtag: Go #PelotOMM!

GROWING TO MEET OUR CLIENTS’ NEEDS

The firm marked a major milestone in 2021, as we expanded our US footprint for the first time in 20 years with new offices in Austin and Dallas. Our move into the Lone Star State was part of a broader growth strategy as we bolstered our teams across the firm, welcoming 23 lateral partners and 183 new associates and counsel (both the most in recent memory). We made the decision to expand our reach and our ranks in direct response to our clients’ increased corporate, regulatory, and litigation needs. And as the new year begins, we’re adding more terrific talent to our roster.

CONCLUSION

Amid all of today’s uncertainties and complications, it’s hard to predict how this new year will turn out. But I do know this: Whatever comes our way, our lawyers and staff will continue to give their all to help our clients and communities thrive in 2022 and beyond.

Be well and stay safe.



Bradley J. Butwin

Chair, O’Melveny & Myers LLP

*Peloton currently offers the program in the US only.

CLIENT SUCCESSES

Banking and Financial Services

O'Melveny represented many of the global financial services industry's premier institutions in 2021, handling work ranging from litigation and regulatory counseling to M&A, corporate finance, commercial lending, and more.

- **AON Hewitt Investment Consulting.** Secured a defense verdict following a five-day bench trial in the Western District of North Carolina. The court rejected claims by the plaintiff, a participant in the Lowe's 401(k) plan, who contended that Aon had breached fiduciary duties of loyalty and prudence to the plan in violation of ERISA by causing Lowe's to delegate fiduciary responsibility for selecting certain of the plan's investment options to Aon and then using the delegated authority to select an Aon investment vehicle known as the Aon Growth Fund as a plan investment option. The district court held that Aon did not act as a fiduciary when selling its delegated fiduciary services and that Aon's investment consultants did not render advice to Lowe's as to whether to retain a delegated fiduciary or whom to retain for that role. The district court also found that Aon acted loyally and prudently in selecting and maintaining the proprietary Aon Growth Fund strategy for the plan.
- **Fidelity Investments.** Secured an important and precedent-setting First Circuit ruling on the scope of fiduciary status under ERISA. The suit, filed in the district of Massachusetts, challenged an "infrastructure fee" Fidelity negotiated with mutual fund providers for fees for the services Fidelity performs to make those companies' funds available to investors, including 401(k) retirement plans. The plaintiffs filed a putative class action arguing that Fidelity was a fiduciary under ERISA when negotiating and collecting those fees, with potentially significant financial and legal implications. O'Melveny successfully persuaded the district court to dismiss the suit in its entirety and defended the decision before the First Circuit, which ruled in March 2021 to uphold our victory for Fidelity.

O'Melveny "stands apart in the ERISA litigation space" with a "deep bench of ERISA litigation stars."—*Chambers USA*, quoting market sources

- **Goldman Sachs and Credit Suisse.** Secured dismissal of the underwriters in putative class actions filed in California Superior Court alleging misrepresentations and omissions in the IPO offering materials for e-commerce platform Pinduoduo. The court granted O'Melveny motion to quash for lack of personal jurisdiction, finding that plaintiffs failed to present any evidence that the specially appearing defendants were subject to general jurisdiction in California, nor did they show that the offering was targeted to California. Underwriters should be able to use this favorable decision in future cases in California state courts.

Ranked nationally for banking and finance law—*US News & World Report/Best Lawyers' "Best Law Firms"* survey

- **Mercatus.** counseled Mercatus, a digital investment data platform, in its sale to State Street. Mercatus—which manages more than US\$1 trillion across a global client base of private market investors in real estate, infrastructure, private equity, and private debt—enables fund managers to integrate various software services onto a single platform. It allows organizations to run risk scenario testing for their portfolio companies and facilitates smoother reporting from funds.
- **Odessa.** advised Odessa, a developer of software for lease and loan origination and portfolio asset management, in an investment by private equity firm Thomas H. Lee Partners (THL).
- **Toronto Dominion (T.D.) Bank.** Defended the bank against a putative class action asserting claims that the bank improperly charged multiple non-sufficient funds fees (NSF Fees) on individual payment transactions. The plaintiffs were checking-account customers who initiated electronic payment transfers from their personal checking accounts to pay for transactions involving third parties. The plaintiffs had insufficient funds in their respective accounts for these transfers and the bank subsequently rejected the payments for lack of funds. These payment requests were subsequently re-submitted against the plaintiffs' checking accounts and the bank assessed an NSF Fee for each payment request, per the plaintiffs' deposit agreements, a practice that the plaintiffs challenged. O'Melveny secured a significant motion-to-dismiss victory, resulting in the dismissal of all consumer-protection claims and leaving the plaintiffs' breach-of-contact claim as the only surviving cause of action. O'Melveny subsequently negotiated a settlement with the plaintiffs to end the litigation.
- **Wells Fargo.** Represented Wells Fargo Bank, N.A., Wells Fargo Securities, and Wells Fargo & Co. in several securities-related antitrust cases in the Middle District of Louisiana, including *City of Baton Rouge/East Baton Rouge Parish v. Bank of America, N.A., Louisiana Asset Management Pool v. Bank of America*, and *City of New Orleans v. Bank Of America*. The actions were based on alleged price-fixing of bonds issued by government-sponsored enterprises. In March 2021, the court granted Wells Fargo's motion to dismiss with prejudice the Baton Rouge complaint. In April 2021, the parties reached an agreement to settle all claims against all defendants, including Wells Fargo, and in June 2021, the court granted the parties' stipulated orders dismissing all the cases.

Colleges and Universities

Over the past year, O'Melveny provided comprehensive legal support to our college and university clients, including counseling and policy advice, internal investigations, government investigations and proceedings, litigation, and communications management.

- **California State University.** Hired by Cal State's Board of Trustees to help negotiate a resolution to a concurrent Title IX investigation by the DOJ Civil Rights Division and US Attorney's Office for Northern District. The investigation related to allegations of sexual misconduct committed by San Jose State's former director of sports medicine and head athletic trainer. To resolve the matter, San Jose State agreed to pay US\$1.6 million to individuals who were sexually harassed and to implement improved policies and procedures for responding to future complaints of sexual harassment. O'Melveny also represents CSU in concurrent civil litigation and related matters.

A go-to firm for Title IX investigations and follow-on litigation over how universities handle sexual assault allegations

- **Harvard University.** Achieved dismissal of a proposed class action seeking refunds for classes forced online by COVID-19. In tossing the suit, the District of Massachusetts ruled that students could not have reasonably expected that the school would guarantee in-person learning even during a global pandemic. The court noted that promotional materials touting the benefits of the Cambridge, Massachusetts campus, hands-on learning, networking opportunities, and other perks of attending the renowned Ivy League school did not amount to a binding contract to offer these services regardless of the circumstances.
- **Nevada System of Higher Education.** Represented NSHE's Board of Regents in an investigation into alleged misconduct between a Regent and a senior board staff member during public board meetings. Our investigation included interviewing all Board Members and other witnesses as well as a document review. We presented our findings to the Board along with recommendations for addressing the issues presented.
- **Syracuse University.** Conducted an internal investigation into allegations of a pattern of inappropriate behavior by Quentin Hillsman, former head coach of the women's basketball program. The alleged misconduct ranged from unwanted physical contact and threats and other forms of bullying of players. The investigation included witness interviews with more than 55 students, coaches, and school administrators, as well as a targeted document review. At its conclusion, O'Melveny issued a report with recommendations for improving the processes and procedures for identifying, escalating, or addressing future concerns from student athletes. In a statement released to the media, Syracuse athletic director John Wildhack thanked the O'Melveny team "for the thoroughness of their work." Hillsman resigned from his position.

- **The Regents of the University of California.** Advised syndicates of underwriters on the issuance of US\$277,425,000 of revenue bonds to fund a student housing project for the University of California, Davis and US\$191,250,000 of revenue bonds to fund a separate student housing project for the University of California, Irvine. In addition to the underwriters and The Regents, each of the transactions utilized a public-private delivery process and involved a non-profit borrower, a private developer/manager, and a conduit issuer for the bonds. The UC Davis project will include approximately 613 new student housing units, comprised of over 1,250 student beds and 125 family apartments, and is intended primarily for students with families and single graduate students on the Davis campus. The UC Irvine project will provide approximately 295 new student housing units, consisting of over 1,000 student beds, and is intended primarily for undergraduate (non-freshman) students on the Irvine campus. O'Melveny advised on structuring and disclosure matters related to both transactions.

Consumer and Retail Products

In 2021, O'Melveny represented top consumer brands in everything from litigation over the battery systems in popular light-up children's shoes to developing and protecting IP portfolios.

- **Belk.** Represented an ad hoc group of holders in the restructuring of Belk, the largest privately owned department store chain in the United States. The company emerged from bankruptcy less than 24 hours after filing, one of the fastest chapter 11 cases in US history. Under the Belk prepackaged chapter 11 plan, which received near unanimous support from first and second lien lenders and the Belk's equity sponsor (Sycamore Partners), members of the ad hoc first lien group received new first lien debt and equity in the reorganized company and the right to participate in a new capital raise that will provide Belk with the liquidity to execute on its business plan and weather the effects of the COVID 19 pandemic. As a result of the consensus achieved among first and second lien lenders and Sycamore, unsecured claims were unpaired and received a 100% recovery under the plan.
- **Blackstone Products.** Advised Blackstone on its US\$900 million go-public merger with Ackrell SPAC Partners I Co. The outdoor griddle, appliance, and accessory maker joins several other cooking brands in going public during the coronavirus pandemic.

[Advised on the exit via sale, IPO, or SPAC transaction of more than 40 venture-backed companies, generating nearly US\\$20 billion in proceeds](#)

- **Francesca's Collections.** Counseled women's fashion boutique Francesca's on its successful sale and asset liquidation through a fully consensual bankruptcy plan. In December 2020, Francesca's and three affiliates sought chapter 11 protection, with over US\$290 million in debt, citing pandemic-weakened sales. The buyers of Francesca's remaining specialty retail business will keep at least 275 of its boutiques open and retain the management team and nearly all other employees. The extraordinarily successful restructuring was lauded by the judge overseeing the case: "This is a frankly very, very welcome result," Judge Shannon said during a hearing held by video. "This is an extraordinarily challenging environment and to come up with competing, going concern sales and the opportunity for a robust auction, that would not have been anyone's likely prediction at the outset of this process."
- **Guess?** Counseled the global lifestyle brand on a complex transaction involving the transfer of intellectual property rights from certain US entities to a wholly owned Swiss subsidiary, more closely aligning the company's IP rights with its business operations. A multi-office, interdisciplinary team of O'Melveny corporate, IP, tax, and finance attorneys completed the transaction from start to finish in less than 30 days.

- **Manner Coffee.** Advised China-based coffee chain Manner in its US\$305 million Series C financing round. Manner, which started in 2015 as a roadside coffee stall in Shanghai, has expanded to nearly 400 outlets in the country.

A top international firm in China—*Asian Legal Business*

- **Skechers USA.** Scored two significant victories for longtime client Skechers in 2021. Initially, in a putative class action pending before Chief US District Judge Sara Darrow in the Central District of Illinois, O'Melveny obtained a dismissal with prejudice on the pleadings (and prior to any discovery taking place) of all consumer protection, negligence, and warranty claims relating to a claimed failure to disclose alleged defects in the battery systems for Skechers' immensely popular light-up children's shoes. In addition, Skechers retained O'Melveny shortly before trial to serve as lead trial counsel to defend the company against claims from a rival shoe company that Skechers' "Commute Time" shoes infringed the name "Traveltime" trademark for a similar style of shoe. After a two-week bench trial, US District Judge Jed S. Rakoff of the Southern District of New York rejected the plaintiff's claims and entered judgment for Skechers. Among other findings, the court ruled that there was no actual or likelihood of confusion in the marketplace between the use of the two names.
- **ThreeSixty Brands.** Represented ThreeSixty, the owner and licensor of the Sharper Image® trademarks, in a licensing dispute with Southern Telecom, one of its licensees. Southern Telecom initiated the litigation seeking over US\$20 million in damages. On behalf of ThreeSixty, we launched an aggressive counter-strategy, including sizable offensive claims, immediate depositions of Southern Telecom's chief executives, and an unexpected Rule 12 motion to dismiss. The federal court in SDNY granted ThreeSixty's motion to dismiss, leaving Southern Telecom with only a single cause of action. The case settled on favorable terms shortly thereafter.

Energy, Natural Resources, and Utilities

Over the past year, energy sector clients turned to O'Melveny to handle various conventional and alternative energy deals, defend mass tort litigation, and represent their interests in chapter 11 cases.

- **Bitcoin mining operators and ancillary service providers.** Advised several bitcoin industry companies on energy deals including:
 - Counseling Cormint Data Systems in the acquisition of a wind farm in Texas (and related agreements, including land use and interconnection/facilities agreements) for the purpose of using the farms' electrical infrastructure to power bitcoin mining operations.
 - Advising Bitmain in securing energy supply arrangements for bitcoin mining operations in Texas.
 - Representing clean computing data center developer Lancium in structuring energy supply agreements, project development, and qualifying for participation in ERCOT ancillary service markets to power bitcoin mining operations.
- **Brazos Electric Power Cooperative.** Representing Brazos—the largest and oldest electric transmission cooperative in Texas—as debtor in its chapter 11 case. In March 2021, Brazos filed for bankruptcy protection as a result of losses arising from the historic winter snow storm in Texas in February 2021, and in an effort to protect its member cooperatives and consumers from liability for invoices totaling over US\$2.1 billion. The outcome of this case will have far-reaching implications on the interplay between state laws and their governing authority with respect to electric cooperatives.
- **Farallon Capital Management.** Advised Farallon and certain of its affiliates on their investment in senior secured notes, the proceeds of which were used to finance Mubadala Investment Co.'s US\$1.65 billion acquisition of the Landulpho Alves Refinery, Brazil's oldest and one of its largest oil refineries, from Petróleo Brasileiro S.A.—Petrobras. The transaction involved US, Canadian, English, Brazilian, and Cayman Island law matters to optimally structure the investment and acquisition.
- **Large Financial Institution.** Advised the financial institution on its tax equity financing of seven wind, solar, and energy storage projects being developed by NextEra Energy. The portfolio is spread across the US—with projects in California, Oregon, New Mexico, Colorado, Iowa, Wisconsin, and Maine—with a total FMV of over US\$1.1 billion, including an expected investment by the financial institution of nearly US\$600 million.

"Energy team provides a 'very strong service' to stakeholders on their strategic investments, acquisitions, dispositions, and joint ventures across a range of renewables projects."—US Legal 500

- **SK E&S Co.** counseled South Korea-based SK E&S on its equity investment in REV Renewables. The deal includes a US\$400 million investment from SK E&S to support REV's portfolio of renewable power and energy storage projects.
- **Southern California Gas Co.** Represented SoCalGas and its parent, Sempra Energy, in resolving nearly six years of litigation by reaching a comprehensive settlement of claims filed by more than 36,000 individuals who claimed personal injury and/or property damage stemming from the 2015 Aliso Canyon gas leak.
- **Syndicates and Other Investors.** Advised syndicates and other investors impacted by the turmoil in the Texas energy market in February 2021 following severe cold weather. O'Melveny helped structure a variety of workouts to avoid hedge providers and other parties from exercising default remedies, including foreclosure on the projects. These workouts have featured large capital contributions from the sponsors and/or tax equity investors, large operating capital loans, and in one case, the structured foreclosure on the sponsor's interest by the back-leverage lender followed immediately by sale of the sponsor interests to the tax equity investor, which would then own 100% of the project.

Entertainment and Media

In 2021, O'Melveny reaffirmed its reputation as the law firm Hollywood turns to, representing some of the industry's biggest names in their most important deals and disputes.

- **21st Century Fox.** Prevailed when a California appellate court affirmed a permanent injunction that O'Melveny won in the trial court barring Netflix from poaching Fox employees with fixed-term employment contracts. The streaming giant and Fox have been in a legal battle since 2016 when Fox sued Netflix after two of its executives under contract were poached by Netflix. The decision ensures that the rights and choices of employees will remain protected.

Fox-Netflix win on appeal earned a “shout out” December 10 from *AmLaw Litigation Daily*

- **CIT Bank.** Counseled CIT as sole lead arranger and administrative agent on up to US\$95 million in financing toward the relaunch of noted Hollywood film production company Castle Rock Entertainment, headed by Academy Award-nominated director Rob Reiner. Castle Rock is behind some of the most indelible films in the American canon, including “When Harry Met Sally,” “A Few Good Men,” “In the Line of Fire,” “City Slickers,” “Miss Congeniality,” “The American President,” and “The Shawshank Redemption.” On the television side, Castle Rock produced “Seinfeld,” one of history’s most successful comedy series.

“They have the best lawyers and what makes them the best is not just that they are bright and experienced, it’s that they understand the business, are practical and work to getting a deal done.”—*US Legal 500* testimonial

- **CJ Group.** Counseled the South Korean conglomerate’s entertainment company, CJ ENM, on its acquisition of an 80% stake in Endeavor Content for an enterprise valuation of nearly US\$850 million—the largest M&A deal for CJ ENM in its 26-year history. CJ ENM is a fast-rising company in South Korea’s expanding entertainment sector, producing TV shows and movies, including Bong Joon-ho’s 2019 Oscar winner “Parasite.”
- **DirecTV.** Scored a decisive victory for DirecTV when the Central District of California granted O’Melveny’s motion to compel arbitration in a class action suit accusing DirecTV and the NFL of monopolizing Sunday out-of-market NFL football broadcasts. The decision further validates DirecTV’s arbitration agreements over objections that they should give way to class actions.

Finalist, *The American Lawyer’s California Litigation Department of the Year*

- **Kesha.** Won important victories for Grammy-nominated singer/songwriter Kesha Sebert in ongoing litigation filed by her former record producer, Lukasz Gottwald (known as Dr. Luke), alleging she breached an exclusive recording agreement and defamed him by accusing him

of sexual abuse. In June 2021, the trial court granted Kesha's motion to assert a counterclaim against Dr. Luke under New York's new law prohibiting "strategic lawsuits against public participation" or "SLAPP." Filing an anti-SLAPP motion allows Kesha to assert a counterclaim seeking to recover her fees, costs, compensatory damages for her emotional harm, and punitive damages resulting from the producer's suit against her. And in July 2021, a New York appellate court certified an appeal to the state's highest court—the Court of Appeals—raising certain legal questions, including whether a privilege applies to protect Kesha from liability for statements made in litigation documents.

- **Lionsgate.** counseled Lionsgate on its sale of a controlling interest in Pantaya, a US Hispanic subscription video streaming service, to Hemisphere Media Group. Pantaya was launched in 2017, through a joint venture between Hemisphere and Lionsgate. Under the agreement, Hemisphere will maintain a strategic content relationship with Lionsgate and Starzplay, the international premium subscription service of Lionsgate's Starz, that encompasses Spanish-language movie and television co-productions. In addition, Pantaya will continue licensing Spanish-language content from Lionsgate's 17,000-title film and television library.
- **NBCUniversal.** Secured dismissal of a US\$2.85 billion defamation suit filed in Tennessee state court by SmileDirectClub (SDC). The teledentistry company claimed the network made false and misleading statements in a February 2020 broadcast of "NBC Nightly News With Lester Holt." NBCUniversal contended the reports were fair and accurate and sought dismissal of the case pursuant to a motion to strike the complaint under the Tennessee Public Participation Act. The court granted NBCUniversal's motion and dismissed the suit with prejudice in November 2021.
- **Penguin Random House.** Defending Penguin Random House in a suit filed by the US Department of Justice to block its proposed US\$2.2 billion acquisition of Simon & Schuster—the first major antitrust suit brought by the Biden Administration. Unable to demonstrate that the transaction will reduce competition in book sales or otherwise harm consumers, the DOJ maintains the combination will harm "authors of anticipated top-selling books" by diminishing their compensation. The companies contend there is no merit to the DOJ's position, that the transaction will not lead to lower compensation to authors, and that it is procompetitive in all respects.

O'Melveny "has a litigation-focused team with a successful record in defending high-profile mergers in litigation against the DOJ, FTC, and state-level antitrust authorities."—*US Legal 500*

- **Sirius XM Radio.** Obtained the latest in a series of critical, precedential victories for Sirius XM on one of the most important legal issues to face the music industry in recent history: whether Sirius XM and others who play music for the public must contract with and pay record companies for recordings created before 1972. O'Melveny secured its latest win in August 2021, when the Ninth Circuit Court of Appeals reversed the district court's grant of partial summary judgment in favor of Flo & Eddie, which had alleged that California law grants pre-1972 recording owners "exclusive ownership" in pre-1972 recordings, including a

right to demand a license and compensation whenever those recordings are performed publicly. The Ninth Circuit held that no such public performance right exists, under California common law or statutory law, and remanded for entry of judgment.

"Go to litigation team for any media or technology dispute. O'Melveny has deep experience in the entertainment and media sector and a highly effective litigation team."—US Legal 500

- **The Walt Disney Co.** Represented Disney in a number of high-profile matters, including:
 - Securing summary judgment in a suit over the Disney animated hit film "Zootopia," ending more than four years of intellectual property litigation with a Hollywood screenwriter. In dismissing the suit, the court accepted—nearly verbatim—each of O'Melveny's and Disney's arguments and emphatically rejected the plaintiff's claims.
 - Resolving a dispute with actress Scarlett Johansson over the simultaneous distribution of the motion picture "Black Widow" in theaters and through the Premiere Access on Disney+ consumer service. The litigation was widely reported in the media, with *The Wall Street Journal* asserting that it "is indicative of growing tensions between the creative community... and major media conglomerates." The *Los Angeles Times* reported that the litigation "is the latest and most high-profile example of a debate that's been boiling under the surface in the entertainment industry."
 - Resolving a copyright infringement suit filed against Searchlight Pictures, Guillermo del Toro, and two other defendants over "The Shape of Water," the winner of the Academy Award for Best Picture in 2018. Plaintiff David Zindel alleged that the film infringed "Let Me Hear You Whisper," a play that his father authored.
 - Resolving a suit brought by the screenwriters of the 1987 hit action film "Predator" over the validity of copyright termination notices. At issue was the application of the timing of the window to serve termination notices for grants that cover the right to publication of the underlying work.
 - Representing Disney subsidiary Marvel in several copyright suits brought against former writers, illustrators, and their heirs to secure judicial declarations that the works at issue, involving characters such as Iron Man, Spider Man, and Daredevil, are works made for hire that are owned by Marvel. In covering the case, the *New York Times* noted that "rights issues have become a point of vulnerability in a film industry that is increasingly dependent on 'branded entertainment.'"
- **Travis Scott.** Serving as the rap star's lead counsel in over 120 lawsuits filed in Texas following the November 5 Astroworld concert in which 10 people died and hundreds of others have claimed injuries. Scott is one of a number of defendants, and the numerous cases are in the process of being coordinated for litigation under Texas law.

- **WarnerMedia.** Advised WarnerMedia in the US\$50 million sale of the TMZ entertainment platform and its media properties to Fox Entertainment.

12 partners—both dealmakers and litigators—named to *Variety*'s prestigious “Legal Impact Report”

Fintech

O'Melveny "has built a high-quality FinTech practice providing advice to early-stage companies as well as larger financial institutions."—*Chambers FinTech*

- **Bitcoin.com.** Achieved a closely watched victory in the first antitrust case involving cryptocurrency and blockchain when the US District Court for the Southern District of Florida dismissed with prejudice a complaint alleging that our clients—digital wallet and mining pool operator Bitcoin.com, cryptocurrency pioneer Roger Ver, and individual cryptocurrency software developers—conspired to “hijack” bitcoin by conspiring to adopt a technological upgrade, thereby causing a split or “fork” in the Bitcoin blockchain. The plaintiff alleged the value of its prong on the “fork” was diminished by virtue of the conspiracy. The plaintiff declined to appeal the dismissal. The published opinion—*United American Corp. v. Bitmain, Inc.*, 530 F.Supp.3d 1241 (S.D. Fla. 2021)—establishes new law on the application of the Sherman Act to the cryptocurrency industry and other emerging markets, particularly with respect to collaborations by competitors and vertically related firms.

Secured dismissal in the first cryptocurrency antitrust case

- **Canaan.** Defending Canaan, one of the world’s largest manufacturer of crypto mining machines, and its directors and officers in federal securities class actions pending in federal and state court in New York. The plaintiffs, investors in the IPO, relying upon a report issued by an anonymous short seller, accused Canaan of inflating the number of customers it purported to have, overstating its financial prospects, and failing to disclose certain transactions allegedly involving its executives or major shareholders. We successfully moved to transfer the federal case from the District of Oregon, where it was filed, to the Southern District of New York, which subsequently granted our motion to dismiss. Plaintiffs are currently seeking leave to file an amended complaint. In the state court case, we successfully moved to stay the case pending resolution of the federal action.
- **CasperLabs.** Defeated a plaintiff’s request for a temporary restraining order and preliminary injunction that sought to halt the use of the “Casper” name, including its use in a March 2021 launch of a cryptocurrency under the name “Casper” and mainnet launch of the Casper Network. CasperLabs is an investor-backed company that developed software, architecture, and codebase for the Casper Network, an open-source blockchain optimized for enterprise. Ethereum Foundation researcher Vlad Zamfir, who previously worked for CasperLabs as a researcher, filed a complaint against the company alleging a trademark violation. He claimed he had been using the name “Casper” for six years to refer to himself and his research. O’Melveny successfully argued that CasperLabs already exclusively possess the federally registered trademark for “CASPER” in connection with digital currency and that when Zamfir learned in 2019 that the company planned to call the token and the network as “Casper,” he did not raise any concerns. The case remains pending in federal court.

O'Melveny lawyers have “excellent relationships” with major fintech regulators.—*Chambers FinTech*

- **Coinbase.** Counseled the cryptocurrency exchange on its acquisition of FairX, a CFTC-regulated derivatives exchange or Designated Contract Market. Through this acquisition, Coinbase plans to bring regulated crypto derivatives to market, initially through FairX's existing partner ecosystem. Over time, Coinbase plans to leverage FairX's infrastructure to offer crypto derivatives to all Coinbase customers in the US, making the derivatives market more approachable for millions of retail customers.

“Working with them is a great experience. They care about getting it right, and they care about finding solutions for the client.”—*Chambers FinTech*

- **Forte.** Advised Forte on two financing rounds in 2021, catapulting the blockchain gaming platform to unicorn status with a valuation north of US\$1 billion. The San Francisco-based company provides the blockchain infrastructure for video games such as cryptocurrency wallets and a range of non-fungible tokens (NFTs).

Worked with ~40 unicorns—private companies valued at more than US\$1 billion—including 12 newly minted unicorns

- **UP Fintech.** Counseled the underwriters of UP Fintech, a Chinese online brokerage service, on a US\$183 million follow-on offering. It was the first follow-on offering of shares since UP Fintech's 2019 IPO, which O'Melveny also had advised on. UP Fintech (aka Tiger Brokers) offers customers comprehensive brokerage services, including trade order placement and execution, margin financing, IPO subscription, ESOP management, investor education, community discussion, and customer support.

Government

O'Melveny served as a trusted advisor to governments in 2021, drawing on a team of lawyers with in-depth knowledge of regulatory practices and close relationships with senior officials in state and federal governments.

- **California High-Speed Rail Authority.** Representing CHSRA, the state agency overseeing the development of high-speed intercity rail service in California, in negotiations over various master agreements and rail improvement matters to facilitate the development and operation of California's high-speed rail service.
- **City of Long Beach, New York.** Serving as counsel in the restructuring of Long Beach City—one of most distressed municipalities in New York State with approximately US\$500 million in legacy debts. The city council cited O'Melveny's "deep experience in financial restructuring" in their unanimous decision to retain our team in April 2021.

O'Melveny "played a key role in a number of high-profile municipal restructurings."
—US Legal 500

- **Puerto Rico.** Served as lead counsel for all Puerto Rico governmental agencies and instrumentalities in Puerto Rico's US\$120 billion restructuring—the largest and most complex municipal restructuring in US history. Puerto Rico's bankruptcy followed unprecedented challenges endured by its people, including two devastating hurricanes, the resignation of their governor, multiple earthquakes, and the COVID-19 pandemic. Over the past five years, a firmwide, cross-practice team engaged in unprecedented efforts at fiscal and economic reforms impacting all areas of government. Among the highlights, O'Melveny:
 - Negotiated and consummated consensual restructurings of over US\$72 billion in debt.
 - Successfully navigated a unique power-sharing arrangement between the Puerto Rico Government and a Congressionally established Oversight Board.
 - Led the Government's multi-year effort to rebuff the Oversight Board's plan to cut pensions. These efforts resulted in maintaining existing pension benefits as part of the Commonwealth's historic plan of debt adjustment.
 - Represented the Government Development Bank for Puerto Rico (GDB) to restructure more than US\$5 billion of debt under Title VI of the Puerto Rico Oversight, Management, and Economic Stability Act (PROMESA)—a first-of-its-kind transaction.

- Represented the Puerto Rico Sales Tax Financing Corporation (COFINA) in connection with its plan of adjustment, which allowed COFINA to restructure over US\$17 billion of debt and avoid costly and protracted litigation.

On January 18, 2022, US District Court Judge Laura Taylor Swain approved a comprehensive debt adjustment agreement for the Commonwealth of Puerto Rico, the Puerto Rico Public Buildings Authority, and the Employees Retirement System of the Government of the Commonwealth of Puerto Rico, paving the way for Puerto Rico to put this difficult economic chapter behind it.

[Bankruptcy Litigation Law Firm of the Year—US News & World Report/Best Lawyers’ “Best Law Firms” survey](#)

Health Care

With a team that understands both the law and the business of health care, O'Melveny helped industry clients achieve a wide range of goals in 2021—from litigation and crisis management to financings and regulatory matters.

- **CareCentrix.** Secured a preliminary injunction in a trade secrets case filed by CareCentrix, a provider of benefit management services to health plans, including its prized offerings for coordinating post-acute care (PAC)—*i.e.*, a patient's transition from the hospital to the home. The suit alleges the former general manager of its PAC program sent confidential documents to a competitor, Signify Health, before leaving CareCentrix to join the competitor. In December 2021, the District of Delaware issued the injunction barring the former CareCentrix executive from working for his new employer until the expiration of his non-compete agreements with CareCentrix.

O'Melveny “brings expertise in employment, IP, white-collar and criminal law to its trade secrets litigation.”—*US Legal 500*

- **CareTrust REIT.** Represented CareTrust in a US\$400 million private offering of 3.875% senior notes and related redemption of US\$300 million 5.25% senior notes. KeyBancCapital Markets, BMO Capital Markets, and Barclays served as the lead initial purchasers in the debt offering. O'Melveny has represented CareTrust in a series of capital markets and other financing transactions over the years in addition to handling SEC regulatory matters. CareTrust owns, acquires, develops, and leases skilled nursing, seniors housing, and other healthcare-related properties.
- **Former WageWorks Directors.** Secured dismissal of an appeal in a California state court action alleging that the 2019 merger between health and employee benefit plan administrators WageWorks and HealthEquity was the result of an “inseparable fraud” under Delaware law. The litigation stems from a restatement of WageWorks’ 2016–2017 financials that, in addition to the state court action, resulted in a securities class action against WageWorks and the directors in the Northern District of California. The federal securities class action settled and the Superior Court case was dismissed leading to the unsuccessful appeal.
- **Humana.** Defended Humana in a two-year arbitration initiated by a major hospital system alleging underpayments associated with federal Medicare payment reductions, out-of-network emergency services, and referral obligations. The case was favorably settled after aggressive discovery and dispositive motions eviscerated the hospital system’s potential damages.

- **Kaiser Permanente.** Representing Kaiser Permanente in six consolidated False Claims Act *qui tam* actions in the Northern District of California. The US Department of Justice (DOJ) partially intervened in those actions in October 2021. DOJ's complaint relates to risk-adjusted payments based on diagnoses that DOJ alleges Kaiser Permanente added improperly via addenda to medical records.

"Particularly skilled in healthcare matters, benefiting from numerous attorneys with expertise in areas such as Medicare fraud and healthcare-focused False Claims Act matters"

—US Legal 500

- **Managed Care Organization.** Serving as lead counsel to a managed care organization and its subsidiary, the largest home care company in the US, on various legal concerns arising from the COVID-19 pandemic. The range of advice covers crisis management issues, litigation, employment, and regulatory matters.
- **UnitedHealth Group.** Represented UnitedHealth in the following matters in 2021:
 - Eight lawsuits filed by out-of-network provider groups affiliated with TeamHealth, one of the largest physician staffing and management companies in the US. TeamHealth staffs hospital emergency departments, often on an exclusive basis, so patients have no choice but to be treated by a TeamHealth physician when they go to the ER. The lawsuits involve RICO allegations and disputes over the proper out-of-network reimbursement for the services of hospital emergency department physicians or of hospital-based anesthesiologists. These cases are part of a larger trend of disputes between health insurers and health care providers over reimbursement rates and costs associated with the delivery of medical care.
 - *Scott v. UnitedHealth Group*, a putative class action filed by plaintiff-participants challenging UnitedHealth's process to recover overpayments to health care providers by alleging that the process violated ERISA's fiduciary duty of loyalty and constituted a prohibited transaction, among other claims. O'Melveny convinced a federal judge to dismiss all claims against UnitedHealth by drawing comparisons between the plaintiff-participants' allegations and the recent (and still barely tested) Supreme Court decision in *Thole v. U.S. Bank N.A.*, 140 S. Ct. 1615 (2020). In its ruling, the court held that the plaintiff-participants in the ERISA-governed, employer-sponsored health plans lacked standing to challenge UnitedHealth's process because they were not denied any benefits and have not been individually injured.
 - *Gozdenovich v. AARP* and *Nichols v. AARP*, parallel putative class actions filed in New Jersey and California, respectively, by plaintiffs seeking to challenge UnitedHealth's licensing arrangement with AARP in connection with United's AARP-branded Medigap insurance. The complaints allege that UnitedHealth's payment of a royalty to AARP for use of its intellectual property is actually an unlawful commission, paid for AARP's unlicensed insurance solicitation activities. On summary judgment motions, district courts tossed both suits, holding that the claims—which essentially

seek to discount his legally mandated Medigap insurance premiums—are barred by the filed-rate doctrine, which precludes challenges to rates approved by governing regulatory agencies in judicial proceedings. Plaintiffs initially filed appeals but later withdrew them. O'Melveny has helped UnitedHealth defeat numerous such challenges over the past few years, allowing UnitedHealth to maintain its 20-year relationship with AARP and continue offering high-quality, low-cost Medigap insurance to AARP members.

“Very experienced” health care team with “an enviable client base.”—US Legal 500

Industrials and Manufacturing

Over the past year, O'Melveny guided industrial and manufacturing clients through some of their most pressing legal matters, from a rare Korean acquisition of a US public company to a groundbreaking investigation in Japan to a long-running, multi-jurisdictional dispute involving the international steel trade.

- **Apollo Global Management.** Provided due diligence and analysis of environmental, health, and safety issues in a number of deals, including:
 - Apollo's US \$433 million purchase of a 67% stake in Reno De Medici, a European producer of recycled cardboard with plants in Italy, Spain, Germany, and France. The purchase is the inaugural investment of Apollo's new Impact Fund, focused on investments with positive social and environmental impacts.
 - Apollo's acquisition of Kem One Group, which operates eight industrial sites across France and Spain and is a leading European producer of PVC, caustic soda, and chlorinated derivatives.
- **DL Chemical.** Advised South Korea-based DL Chemical, the world's largest producer of polybutene, on its US\$2.5 billion acquisition of Texas-based specialty chemical manufacturer Kraton. We also advised on US\$1.85 billion of financing commitments for the acquisition, including a US\$950 million term loan, US\$300 million ABL revolver, and US\$500 million of unsecured notes. The deal, a rare Korean acquisition of a US public company, enables DL Chemical's foray into the US and European SBC markets, where Kraton holds the largest market share. SBC, short for styrene butadiene copolymer, is a plastic utilized as a raw material for hygiene adhesives, medical goods, automotive interior parts, and 5G cables.

300 global M&A transactions closed in 2021, with an aggregate deal value of nearly US\$105 billion

- **Genstar Capital.** Counseled Genstar in its acquisition of labelling company Brook + Whittle from fellow private equity firm TruArc Partners. Brook + Whittle prints labels and packaging for an array of industries, including the food and beverage, pharmaceutical, and personal care sectors.
- **Hyundai Steel.** Successfully concluded a long-running, multi-jurisdictional dispute that spanned two bankruptcies, litigation in several courts, and both judicial and non-judicial foreclosures. For more than four years, O'Melveny represented Hyundai in its pursuit of remedies following a debtor's default on notes held by Hyundai, which culminated in 2021 with a sale under Section 363 of the US Bankruptcy Code of certain of debtor's collateral. The sale proceeds were used to satisfy a substantial portion of the outstanding debt owed to Hyundai, and the parties concurrently agreed to drop all claims against one another.

- **Mitsui.** Represented Mitsui & Co. (U.S.A.) in its sale of Mitsui Foods to Atalanta Corp. The deal marks the seventh O'Melveny has handled for Mitsui in the food sector, following its investments in Calysta Energy, Hampton Creek, Prime Deli, Salmones Multiexport SA, and Tastemade, and its joint venture with SLC Agricola for the production of soybeans and other crops in Latin America.
- **Nexus Capital Management.** Advised the investment firm on US\$325 million senior secured credit facilities from Barclays, RBC, and SocGen in connection with Nexus Capital's acquisition of HDT Global, a supplier of expeditionary products for military and emergency response use.
- **PMC Capital Partners.** Advised PMC on its sale of StyroChem Canada, a manufacturer of expanded polystyrene (EPS), to Epsilyte Holdings. EPS is a lightweight closed-cell foam used for a wide range of applications, including crafts, insulation, construction, and packaging.
- **rfXcel.** Advised rfXcel, the US-based Software-as-a-Service (SaaS) company, and its equityholders on its sale to Antares Vision, headquartered in Italy.
- **Toshiba.** Conducted an investigation into claims that Toshiba's top management colluded with senior Japanese governmental officials to block foreign investors from gaining board influence, in what one top shareholder reportedly called the world's worst corporate scandal in a decade. Unlike a typical investigation initiated by a company's management or board, O'Melveny was appointed by Toshiba shareholders. Our findings—issued in a 147-page report—led to the removal of several executives and board members. Shareholders subsequently ousted the company's board chairman as well. The report is viewed as a breakthrough towards progress for better corporate governance and oversight in Japan.

Global Investigations Review recognized O'Melveny among the top 100 firms worldwide handling "sophisticated cross-border government-led and internal investigations."

Insurance

Insurance Practice Group of the Year: 4-time winner—*Law360*

- **Allied World Assurance.** Erased judgment exposing client to US\$10 million in insurance liability for the costs of defending a host of lawsuits alleging that a hospital engaged in fraudulent billing practices. After a series of trial court rulings finding a duty to defend and ordering Allied World to immediately begin paying the hospital's defense costs, O'Melveny's team orchestrated a strategy to obtain immediate appellate review of the rulings, thereby protecting our client from being immediately subject to enforcement of the payment orders. And on appeal, O'Melveny persuaded the Kentucky Court of Appeals that a policy exclusion for previously reported losses eliminated any possibility of coverage for the hospital's costs, thereby requiring reversal of the initial ruling finding a duty to defend.

"Recognized for its handling of high-stakes coverage disputes at trial and appellate level"—*Chambers USA*

- **Chubb Group.** Prevailed for Chubb on a number of fronts. Highlights include:
 - Securing a Delaware Supreme Court ruling that Chubb is not obligated to defend Rite Aid Corp. against lawsuits that accuse Rite Aid of contributing to an opioid epidemic. A 2020 lower-court ruling found that certain Chubb subsidiaries had to defend Rite Aid against lawsuits brought by two Ohio counties. But since the counties are not seeking recovery for any residents' personal injuries, but rather to offset the burden of higher demands for medical treatment and the impacts on their criminal justice systems, the Delaware High Court reasoned that "policies covering personal injury cases did not require Chubb to defend Rite Aid against lawsuits seeking only economic damages."
 - Achieving victory when the Ninth Circuit affirmed a lower court's ruling that three insurers, including a Chubb affiliate, do not have a duty to defend or indemnify builders of the San Francisco 49ers's football stadium in a suit alleging that the team's home venue, Levi Stadium in Santa Clara, California, violated the Americans with Disabilities Act and the state's Unruh Civil Rights Act because it contained physical barriers that hindered access for disabled people. In denying coverage, the appellate court agreed that the underlying claims in the suit did not meet the insurance policies' threshold requirement that claims for bodily injury or property damage stem from an accidental "occurrence," because the stadium's construction was an intentional act.
 - Persuading the Second Circuit to reverse a multimillion-dollar jury verdict against a Chubb affiliate in a reinsurance dispute with Utica Mutual Insurance Co.

- Convincing the Second Circuit that a Chubb affiliate had no duty to defend Dish Network in copy infringement suits against the television provider’s “Hopper” digital video recording (DVR) service, “finding that the policyholder fits within a media exclusion’s definition of broadcaster” and that Dish has to pay for its defense costs.
- Achieving another victory in the Second Circuit, which upheld a district court ruling that Global Reinsurance Corporation of America must pay a Chubb affiliate’s defense costs in asbestos litigation in excess of the liability limits of reinsurance certificates. The ruling found that the “Bellefonte rule,” which caps reinsurer’s liability, is no longer law in the circuit.
- Defeating a suit filed on behalf of the NBA’s Los Angeles Lakers seeking coverage for business losses incurred at the Crypto.com Arena (formerly Staples Center) because of the pandemic.
- Prevailing in a confidential reinsurance arbitration proceeding against Allianz and National Surety in which we secured a full recovery under two reinsurance contracts.

Top-Ranked Insurance Law Practice: 9 Years Running—*US News and World Report/Best Lawyers* “Best Law Firms” Survey

- **Net Insurance.** Successfully represented the Italian insurer in its application to the English High Court to enforce the terms of a €10 million settlement of a dispute with an Italian businessman and his Maltese company. The court made its ruling on the basis of witness evidence only and without a full trial.

Life Sciences

O'Melveny's "life sciences department has strong ties to pharmaceutical, medical devices and diagnostics companies, and also maintains a strong portfolio of venture capital firms."—US Legal 500

- **Amylin Pharmaceuticals.** Defending Amylin, an AstraZeneca subsidiary, against claims by more than 1,000 plaintiffs in a federal Multi-District Litigation and California Judicial Council Coordinated Proceeding. The claims allege major drugmakers failed to warn that certain prescription brand-name drugs used to treat type 2 diabetes, including Amylin's Byetta, cause, or increase the risk of, pancreatic cancer. O'Melveny and co-defendants moved for summary judgment on both federal preemption and general causation grounds. The motions were heard jointly by the MDL and California judges and in March and April 2021, Amylin and co-defendants prevailed. The preemption ruling in these cases is one of the first to address certain aspects of the Supreme Court's *Albrecht v. Merck* decision and will have far-reaching consequences for pharmaceutical product liability litigation. The win earned a "shout out" March 12 from *AmLaw Litigation Daily*.

Among "the elite" for product liability and mass torts—*Chambers USA*

- **Edwards Lifesciences.** Advised Edwards Lifesciences on the spinoff of its CardioCare business unit and joint venture with Abundant Venture Partners, a venture capital fund focusing on investments in the health care and life sciences industries. CardioCare manages patients with structural heart disease by using artificial intelligence to keep patients on track in their care journey, reduce diagnostic variability, and streamline clinical workflows. The joint venture entity, egnite, launched with the goal of leveraging advanced technologies and analytics to improve health outcomes for structural heart-disease patients.
- **Endo Pharmaceuticals.** Obtained victory for Endo in a long-running antitrust litigation against rival drug company Fresenius Kabi, when the District of New Jersey granted the firm's motion for summary judgment in full for a second time following a partial remand from the Third Circuit. Fresenius elected not to appeal again, thus the ruling extinguishes each of its 11 causes of action, for which it was seeking hundreds of millions of dollars in treble damages. Fresenius's action alleged that Endo subsidiary Par had monopolized the market for Vasopressin Injection—a life-saving injectable drug used to boost blood pressure in emergency settings—by entering into exclusive agreements with all suppliers of the active pharmaceutical ingredient (API) needed to manufacture the drug.
- **iA.** Advised iA, a portfolio company of Allomer Capital, in the sale of a majority interest in iA to Walgreens Boots Alliance for US\$450 million. Allomer acquired a majority interest in iA in 2019, also advised by O'Melveny. Allomer remains a minority investor in iA, which automates the prescription fulfillment process. In addition to Walgreens, iA's customers include the Veterans Administration, the US Air Force, and numerous other retail and mail order pharmacy providers.

- **Imago BioSciences.** Represented the underwriters in Imago's US\$135 million US IPO. Imago is a clinical stage biopharma company developing treatments for bone marrow diseases.
- **Johnson & Johnson.** Continuing to serve as lead litigation and national coordinating counsel for J&J and its Janssen subsidiary in thousands of suits accusing pharmaceutical companies of causing an opioid epidemic. With cases filed from coast to coast alleging novel theories of liability and seeking billions in damages, the opioids litigation is regarded as "the most complex constellation of cases that have ever been filed," according to the judge overseeing the ongoing federal multi-district litigation in Ohio. We scored the first trial win for any pharmaceutical manufacturer in the opioid litigation when an Orange County Superior Court Judge issued a ruling finding J&J and other manufacturers not liable in a US\$50 billion suit brought by some of California's largest cities and counties. A week later, we persuaded the Oklahoma Supreme Court to overturn a US\$465 million verdict from 2019, with the state high court concluding that the award rested on an improper expansion of state public nuisance law. And we simultaneously led the negotiation of a landmark, US\$5 billion nationwide settlement that will resolve the vast majority of remaining opioids litigation against J&J. A few states have opted not to join the global settlement, and we are preparing for additional trials scheduled in 2022 in West Virginia, New Hampshire, and Washington. Our work in these matters lies directly at the intersection of law and public policy.

Winner, The American Lawyer's Product Liability Litigation Department of the Year: "With the world watching, O'Melveny's products liability litigators get clients the results they need."

- **Pharmaron Beijing.** Advised Pharmaron, a contract research organization offering R&D services, in its acquisition of Aesica Pharmaceuticals. The deal expands Pharmaron's chemistry and manufacturing services. O'Melveny also counseled on a Regulation S private offering of US\$600 million of zero coupon convertible bonds due in 2026. Over a decade long relationship, O'Melveny has counseled Pharmaron on various corporate matters, including its HK IPO and a number of M&A deals.
- **Pharma HK IPOs.** Once again, Asia capital markets team led a slew of significant pharma and biotech listings in Hong Kong, including:
 - **Brii Biosciences.** Counseled the biotech company on its US\$318 million HK IPO. Brii will use the proceeds to support the development of programs for hepatitis B virus (HBV), HIV, drug-resistant infections, and other illnesses.
 - **Jacobio Pharmaceuticals Group.** Advised Jacobio on its US\$174 million HK IPO. Jacobio is a clinical-stage pharmaceutical company focusing on developing innovative oncology and other therapies.
 - **Keymed Biosciences.** Counseled the clinical-stage biotech company on its US\$398 million HK IPO. Founded in 2016, Keymed develops innovative biological therapies to treat cancer and autoimmune diseases. It currently has a pipeline of

eight drug candidates, including five at the clinical stage. The Keymed IPO was one of 2021's most subscribed.

- **Yonghe Medical.** Counseled China's largest chain of hair transplant clinics on its US\$192 million HK IPO. The company plans to use its IPO proceeds to upgrade and expand clinics and invest in technologies.

[Capital markets team handled more than a dozen HK and US IPOs in 2021.](#)

- **RemeGen.** In what is the largest licensing transaction ever by a Chinese pharmaceutical company, counseled RemeGen on its exclusive worldwide license agreement with Seagen to develop and commercialize RemeGen's disitamab vedotin, a novel HER2-targeted antibody drug conjugate (ADC). The HER2 protein is overexpressed in breast and other cancers. Prior to this deal, Seagen lacked an ADC that targeted HER2, a gap in its pipeline now filled through this agreement. The deal is valued at about US\$2.6 billion. O'Melveny previously advised RemeGen on its US\$588 million Hong Kong IPO—the largest biotech primary listing and IPO of 2020.

[Largest ever licensing deal by a Chinese pharma](#)

Real Estate and Homebuilding

O'Melveny's real estate successes last year included thwarting a billion-dollar *qui tam* case against a major homebuilder and helping one of largest owners and operators of shopping centers in the US amend the financing on dozens of properties.

- **AFC Gamma.** Advised the Florida-based real estate investment trust on various corporate, financing, and regulatory matters including its US\$100 million IPO Nasdaq listing and subsequent US\$100 million notes offering. Founded in 2020, AFC Gamma makes loans to cannabis companies.

O'Melveny's "top notch" capital markets lawyers "understand the role of the General Counsel and the in-house team and how best to support them."—*US News & World Report/Best Lawyers' "Best Law Firms"* survey

- **Anchor Loans.** Counseled Anchor Loans, a provider of financing to residential real estate investors and entrepreneurs, on its sale to investment management firm Pretium. Anchor has originated more than US\$10 billion in debt, specializing in small loans to professional home flippers as well as rental landlords.
- **BrightSpire Capital.** Secured victory for BrightSpire Capital (f/k/a Colony Credit Real Estate) and certain of its officers and directors when Central District Chief Judge Philip S. Gutierrez granted BrightSpire's motion to dismiss a putative class action for securities fraud. The plaintiffs claimed that they were defrauded into acquiring BrightSpire stock because BrightSpire overestimated the value of a hotel property securing a small portion of its loans, allegedly rendering nearly all of BrightSpire's public disclosures false or misleading. On the contrary, as BrightSpire gradually determined that the loans on the hotel might not be repaid, it followed Generally Accepted Accounting Principles and its own accounting policies to reduce the carrying value of those loans, taking impairments, and timely disclosing those changes to investors.
- **China VAST.** Counseled China VAST Industrial Urban Development Co. and its major shareholder, Profit East, in the sale of approximately US\$191 million of shares (accounting for 29.9% of China VAST's holdings) to China Jinmao Holdings Group. China VAST also issued 6% convertible bonds of US\$123 million with a 36 month maturity date to China Jinmao. Together the two transactions are valued at US\$314 million. China VAST is principally engaged in the planning, development and operation of large-scale industrial towns, property development, and property leasing in the PRC. Over the years, O'Melveny has advised China VAST on various financings and investments.
- **Global Infrastructure Solutions.** Advised GISI, a construction, management, engineering, and consulting firm, in a US\$400 million high-yield offering led by BofA Securities, JPMorgan, and Wells Fargo Securities.

- **Lennar.** Thwarted a billion-dollar *qui tam* case against homebuilder Lennar after finding a California real estate developer's name on a change-of-counsel form. The real estate developer was previously a creditor who agreed to waive all claims related to a bankrupt Lennar entity, LandSource Communities Development, after Lennar contributed nearly US\$140 million to the bankrupt estate. Lennar suspected the developer was behind the *qui tam* case filed by an entity called Citizens Against Corporate Crime but had no proof ahead of discovery. But then an O'Melveny attorney noticed a lawyer substitution form filed by CACC had three signatures, including the developer's. With that, a Delaware court blocked the lawsuit based on the release of bankruptcy claims, saving years of discovery and cutting short the litigation. The Third Circuit upheld the ruling and the US Supreme denied *certiorari* June 2021.
- **Macerich.** Helped one of largest owners and operators of shopping centers in the US amend the financing on dozens of properties, pay off an existing US\$1.5 billion corporate credit facility, and arrange a new US\$700 million credit facility.

[Advised on US\\$165 billion in capital markets and finance transactions in 2021](#)

- **Newport Lido Medical Center.** Counseled NLMC in the sale of its two-building, 146,510-square-foot medical office building complex located in Newport Beach, California. The sale represented the first time in over 30 years that the property has changed ownership. NLMC is positioned within one of the most desirable medical markets in the US, bordering the campus of the award winning 434-bed Hoag Hospital Newport Beach and with nine other hospitals totaling 1,374 beds within a 10-mile radius. The property includes 651 parking stalls through a surface level plaza and raised deck and a three-level subterranean parking structure, totaling a parking ratio of 4.44 per 1,000 rentable square feet, a rare amenity in this high-density submarket.
- **The Irvine Co.** Advised The Irvine Co. on a US\$130 million commercial mortgage-backed securities (CMBS) loan originated by Wells Fargo Bank. The loan is secured by two Silicon Valley office buildings that are part of a much larger office campus owned by the client. The loan represents the first CMBS loan obtained by The Irvine Co. in several years.
- **Tishman Speyer.** Represented a Tishman Speyer subsidiary in its purchase of the Mazza Gallerie shopping center in Washington, DC. The shopping center saw significant decline in 2020 due in large part to the effects of the COVID-19 pandemic on brick-and-mortar retail. Tishman Speyer plans to redevelop the shopping center as a mixed-used development, including retail and residential units. In connection with its purchase, Tishman Speyer also obtained a loan from EagleBank, a regional lending institution.

Sports

O'Melveny's "very strong" sports practice "resembles an all-star team of lawyers."—*Chambers USA*

- **Angel City Football Club.** Advised the professional National Women's Soccer League team in Los Angeles on novel multi-year sponsorship deals, including agreements with Heineken, DoorDash, Birdies, Sprouts, Cedars Sinai, and Jane Walker by Johnnie Walker, resulting in the most annual sponsorship revenue of any US professional women's sports organization in history, with 10% of every sponsorship dollar the team receives allocated to local initiatives that support the community.
- **Aspiration.** Counseled the green financial services company—which counts Leonardo DiCaprio and NBA coach Doc Rivers among its investors—in an agreement to become a founding partner of the Los Angeles Clippers' new basketball arena.
- **Atlanta Braves and SWB Investors.** Represented the 2021 World Champion Atlanta Braves and SWB Investors in the sale of four Major League Baseball Professional Development League Clubs to Endeavor. The Braves deal involved the sale of three of its minor league affiliates—the Triple-A Gwinnett Stripers, the Double-A Mississippi Braves, and the High A Rome Braves. We advised SWB Investors on its sale of New York Yankees' Triple-A affiliate, the Scranton/Wilkes-Barre RailRiders.
- **CJ Group.** Advised the South Korean conglomerate's food and beverage company, CJ CheilJedang, on its multi-year global marketing partnership with the National Basketball Association's Los Angeles Lakers, including the official jersey patch rights for Bibigo®, the top brand of Korean cuisine in the US and globally, beginning with the 2021-22 NBA season.
- **fuboTV.** Advised the sports-focused streaming service in its US\$190 million acquisition of Molotov SAS, France's number one live TV streaming company. For fubo, which previously operated in the US, Canada, and Spain, the deal marks a significant expansion of its reach in Europe.

Completed 180 cross-border transactions with an aggregate deal value of US\$60 billion

- **Genius Sports.** Advised the NYSE-listed sports data and technology company on various matters in 2021, including:
 - Its US\$200 million purchase of Second Spectrum, a video analytics platform that works with the NBA, Premier League, and Major League Soccer and uses cameras installed in an arena or stadium to track the movement of the ball and players.

- Its deal to become the exclusive official data provider for the National Football League, distributing real-time play-by-play stats and providing sports betting data feeds to media companies and sports betting firms domestically and internationally.
- Its strategic partnership with the Canadian Football League (CFL), the world's second largest football league, to provide a range of technology and services that will help the CFL accelerate its growth plans and engage new audiences globally.
- **Portland Trail Blazers.** Conducted a sensitive and high-profile investigation into allegations of workplace misconduct at the team's practice facility.
- **SportsTek Acquisition Corp.** Advised SportsTek on its formation and upsized US\$150 million US IPO. SportsTek, a special purpose acquisition company or SPAC, focuses on targets in sports and related industries, such as franchises, media, and data analytics.
- **Stadium development deals.** Advised on various stadium projects in different leagues and locations, including:
 - Representing New York's chief economic development agency, Empire State Development Corp., in negotiations to build a new US\$1.4 billion stadium for the National Football League's Buffalo Bills.
 - Counseling the City of Miami in its negotiations with new Major League Soccer franchise Inter Miami CF to build a 25,000-seat soccer stadium and ancillary development.
 - Advising the State of Hawaii on the redevelopment of Aloha Stadium, including a new stadium and upwards of four million square feet of mixed-use ancillary development adjacent to the stadium, featuring hotel, office, and commercial spaces.
 - Representing KC NWSL, Kansas City's professional women's soccer team, in negotiations to bring a new US\$15 million training facility to Riverside, Missouri. O'Melveny is also representing KC NWSL on its development of a new US\$70 million, 11,000-seater stadium, which will be the first stadium developed primarily for a US women's pro soccer team.
 - Representing the Tampa Sports Authority in negotiations between Hillsborough County and Major League Baseball's Tampa Bay Rays for a potential new ballpark along with up to four million square feet in mixed-use ancillary development, including commercial, office, multi-family residential, hospitality, and medical spaces.

- Counseling the NFL's Washington Commanders on its efforts to build a new stadium and mixed-use complex. The proposed mixed-use complex would include restaurants, retail, hotels, a conference center and, eventually, residential units.

O'Melveny boasts "a solid track record in M&A involving sports teams, stadium development, player contract negotiations, naming rights, sponsorships, and endorsements."—*US Legal 500*

- **TELEO Capital.** Advised the private equity firm on its acquisition of Teesnap, a provider of cloud-based software services to help golf courses manage and streamline their operations.
- **Todd Boehly.** Counseled the investor in the joint purchase, alongside co-investor Mark Walter, of a 27% ownership stake in the National Basketball Association's Los Angeles Lakers. Boehly, who will join the Lakers' board, is a former Guggenheim executive who runs the investment firm Eldridge and owns stakes in Major League Baseball's Los Angeles Dodgers, Women's NBA franchise Los Angeles Sparks, electronic sports organization Cloud9 Esports, and sports wagering company DraftKings.

Technology

O'Melveny was active in the technology sector in 2021, securing a trial victory for Google and an appellate win for WhatsApp, while counseling startups, established brands, and investors on complex financings and M&A deals.

- **Alation.** Advised Alation, a company specializing in enterprise data intelligence, in multiple venture capital financings, including its most recent US\$110 million Series D financing, which boosted its market valuation to US\$1.2 billion.

Closed nearly 200 venture capital financings raising more than US\$8.5 billion for emerging and growth companies

- **Alibaba Group.** Counseled China's Alibaba Group and its subsidiary, Lazada, a leading Southeast Asia e-commerce platform business, on their participation in the late-stage funding round of Singapore logistics startup Ninja Van. The transaction, which involved an aggregate of US\$578-million from multiple investors (including existing investors), represents an important strategic investment for Alibaba and Lazada.
- **Breakthrough Energy Ventures and Cycle Capital.** Advised the two venture capital firms as major shareholders in ESS in its agreement to become a publicly listed company through a merger with ACON S2 Acquisition Corp., a special-purpose acquisition company. The SPAC values the combined company at US\$1.1 billion. ESS is a manufacturer of long-duration iron flow batteries for commercial and utility-scale energy storage applications.
- **DigiLens.** Advised DigiLens, an innovator in head-worn holographic display and waveguide technology, on its Series D funding valuing the company north of US\$500 million. Samsung Electronics led the funding round. With this additional funding, DigiLens takes a significant step toward being the core technology ingredient inside extended reality (XR) glasses and other XR hardware.
- **Diversis Capital Management.** Counseled the Los Angeles private equity firm on its acquisition of Fishbowl, an inventory management software provider.
- **Elasticsearch.** Representing Elasticsearch, a popular and powerful search and analytics engine, as plaintiff in a case asserting copyright claims against German company Floragunn GmbH. Based in Berlin, Floragunn makes a product called Search Guard, which is an Elasticsearch plugin that offers encryption, authentication, and authorization. Elasticsearch claims that Search Guard infringes Elasticsearch copyrights in its X-Pack and Kibana software products.

"An extremely sharp IP litigation team," a *Chambers USA* source notes.

- **Google.** Google has turned to O'Melveny to handle a number of high-profile matters, including:
 - Securing a sweeping jury verdict for Google after a week-long trial in the Western District of Texas. Texas-based Profectus Technology alleged Google's Nest Hub and Nest Hub Max—which control smart-home functions, display pictures, and play music, among other things— infringe the Profectus patent for a mountable picture frame for displaying digital images. Google brought us into the case more than a year after the case began, when it became clear that the case would likely go to trial. Our team began to prepare for trial nearly immediately, working around the clock to get up to speed on the case. After a week-long trial, the jury deliberated barely more than an hour before finding that Google did not infringe the Profectus patent or induce others to infringe, while also finding the patent claims at issue invalid.
 - Defending Google in multiple suits consolidated in the Northern District of California alleging the tech pioneer has monopolized the distribution of Android apps. The suits pit Google against a game developer, putative classes of consumers and app developers, and 36 state attorneys general. Plaintiffs accuse Google of illegally monopolizing the alleged market for the distribution of android apps by restricting the distribution of third-party app stores, deterring Android users from “sideloading” apps downloaded from the internet, and “tying” app distribution to developers’ use of Google Pay Billing. The complaints claim that Google makes it difficult to buy apps outside the Google Play Store, blocks competing app stores from its marketplace, and prevents those stores from advertising on Google properties. Google has lodged breach of contract and related counterclaims against Epic Games. A trial is expected to begin in 2022.
- **Hanwha Techwin America.** Defended the video equipment manufacturer against a proposed class action under the Illinois Biometric Information Privacy Act (BIPA) in the Northern District of Illinois. The suit alleged that the company’s cameras scanned the faces of shoppers at a retail store, and that the company should be held liable under BIPA even though it did not own or operate the devices in question. Our motion to dismiss was granted with prejudice, with the court holding that the plaintiff had failed to state a claim as to the defendant. Importantly, despite a dearth of caselaw directly on point, we successfully argued that the defendant was not liable under BIPA as a third-party purveyor of technology since it did not own or operate the disputed cameras.

Consumer class action teams feature “really responsive, excellent lawyers from a technical perspective” who “work through the practical issues with you in the trenches.”—*Chambers USA*, client quote

- **HID Global.** Advised US-based HID on its acquisition of Technology Solutions (UK) Limited (TSL), a UK technology company that makes radio frequency identification (RFID) handheld readers to identify and track products and assets. The acquisition, one of several O’Melveny has advised on for HID in recent years, broadens its RFID components business.
- **Inpria.** Counseled semiconductor startup Inpria in multiple financing rounds over the years, culminating in 2021 with its US\$514 million sale to JSR. Inpria develops metal oxide-based material that allows semiconductor companies to make smaller chips and features using the advanced manufacturing process of extreme ultraviolet lithography.
- **Palladium Equity Partners.** Counseled Palladium, one of the US’s oldest minority-owned private equity firms, on its investment in Envoy Global, an immigration services provider. Envoy seeks to streamline the immigration process for employers and foreign nationals. It is one of the only workforce management platforms that combines proprietary technology and expert legal representation to make it possible for companies to hire and manage an international workforce.
- **Samsung.** Counseled Samsung Display Co. on the US\$5 billion conversion of preferred shares of Corning, Inc., and in the subsequent US\$1.5 billion sale of Corning common shares back to Corning, with Samsung agreeing to retain the remaining 9% of its interest in Corning until at least 2028.
- **Samsung and LG.** Won a precedential Federal Circuit ruling that helps draw an important boundary around the explosion of patent cases in the Western District of Texas. The plaintiff, just weeks before filing its complaints against Samsung and LG, assigned patent rights to a Texas entity in a brazen attempt to keep the cases in the Western District. Although the Western District signed off on this shady tactic and rejected our motions to transfer, the Federal Circuit was not fooled. In a unanimous decision, the appellate court found that the Texas presence of that plaintiff “is plainly recent, ephemeral, and artificial” and ordered that the cases be transferred to the Northern District of California.
- **SEEK.** Advised the Australian-listed recruitment company in various corporate matters, including:
 - The sale of its controlling interest in Chinese recruitment website Zhaopin to a buyer consortium led by Primavera Capital in a transaction that valued the company at US\$1.7 billion.
 - Investments in Korean job search platform JobKorea, US augmented corporate training developer Talespin Labs, and corporate education platform Go1.

- **Splashtop.** counseled the remote access and remote support software company on a US\$50 million financing round that pushed the company's valuation beyond the US\$1 billion unicorn level.
- **TeamViewer US.** Defended TeamViewer US in a putative consumer class action lawsuit alleging violations of the California Consumer Privacy Act (CCPA) and Unfair Competition Law (UCL) relating to TeamViewer's practice of automatically renewing customer subscriptions. Plaintiff alleged that TeamViewer violated the CCPA by providing his credit card information to its processor without his explicit consent when it renewed his subscription and also failed to comply with the terms of California laws regulating automatic renewal policies. O'Melveny moved to dismiss on the grounds that the plaintiff failed to allege any data breach as defined under the CCPA, a novel issue which had only briefly been addressed by one earlier court decision, and because judicially noticeable evidence showed that TeamViewer fully complied with all applicable regulations. The district court adopted those arguments in full and granted the initial motion to dismiss with prejudice. An appeal is currently pending before the Ninth Circuit.
- **WhatsApp.** Scored a victory when the Ninth Circuit affirmed a district court ruling refusing to find Israeli spyware company NSO Group immune from litigation over an alleged hack of Meta's WhatsApp. A three-judge appellate panel shot down NSO's argument that common law foreign sovereign immunity could be asserted by a private entity. The court subsequently denied NSO's request for an *en banc* rehearing. According to public statements from WhatsApp, NSO's spyware technology targeted at least 100 members of "civil society," including human rights defenders, in an attack uncovered in May 2019. Attackers were able to install the spyware merely by calling victims' WhatsApp accounts, even if users didn't answer, WhatsApp has said.

Transportation

O'Melveny made its mark among the top firms in the transportation sector in 2021. Highlights include a US\$1.5 billion SPAC deal, multiple financings for the redevelopment of airport terminals, and a landmark ruling denying class certification in a product liability suit alleging defects in car sunroofs.

- **Air Greenland.** Advised the flag carrier airline of Greenland on its debut US private placement, which raised approximately US\$185 million (about DKK 1.1 billion). According to Citibank, who acted as placement agent, it is the only known unsecured transaction to an airline in the history of the US private placement market.

O'Melveny "praised for its 'deep understanding' of the airline industry in particular."—*US Legal 500*

- **Alaska Airlines and Horizon Air Industries.** Secured summary judgment in a class action alleging pilots should have been paid regular wages while out on short-term military leave. In making their claims, the pilots argued that military leave is equivalent to jury duty or sick leave. But the Eastern District of Washington rejected that argument, holding that military leave was an entirely separate category and shouldn't be held to the same standards. The case is one of three parallel actions the firm is handling, reflecting the rise in USERRA lawsuits over the past few years.
- **American Airlines.** Represented American in a number of high-stakes matters in 2021. Highlights include:
 - Securing a Second Circuit appellate victory for American in a dispute over certain pilots' entitlement to seniority benefits after the airline's 2011 bankruptcy. The appellate court affirmed dismissals by two New York federal courts—the district court and the bankruptcy court—in actions that claimed American and the Allied Pilots Association conspired to cost a group of former Trans World Airlines pilots their seniority perks during an arbitration stemming from American's bankruptcy.
 - Achieving a First Circuit victory for American in a dispute involving a grievance filed by a former chairman of a pilots' union. The former union chairman alleged that, following a leave of absence to serve as a union leader, he was not allowed to complete required pilot training leader in retaliation for his hostile working relationship with the then-president of US Airways (which later merged with American). The appellate court affirmed the district court's dismissal of the former chairman's claim against American for breach of the collective bargaining agreement/wrongful termination.
 - Defending American in an ERISA-related complaint filed in the Northern District of Texas. The action challenged the inclusion of deposits with the American Airlines

Federal Credit Union as an investment option in American's 401(k) plan. We secured summary judgment on behalf of American, a ruling subsequently affirmed by the Fifth Circuit.

- Counseling American and its financing team, led by Citigroup Global Markets, on the issuance of approximately US\$150 million of special facility revenue bonds issued for the benefit of American by the New York Transportation Development Corp. The revenue bond proceeds are being used to finance the renovation and expansion of Terminal 8 at John F. Kennedy International Airport and to refinance certain project bonds issued to refinance the original construction of the terminal.
- Winning an arbitration that preserves American's ability to have managers operate new technology that essentially runs the airline's entire below-the-wing ground operation. The arbitration involved a number of consolidated grievances alleging that the company had violated the Fleet Service Joint Collective Bargaining Agreement by placing managers and not fleet service crew chiefs in certain newly created jobs. The arbitration was important to American because of the significant potential operational impact.

[An authority on Railway Labor Act and aviation labor work](#)

- **Atlas Air.** Achieved a critical victory for cargo airlines Atlas Air and Southern Air in an interest arbitration establishing the first-ever collective bargaining agreement covering the two carriers' combined group of pilots following their merger. In a meticulous decision, Arbitrator Dana E. Eischen overwhelmingly agreed with Atlas' position in the arbitration. Arbitrator Eischen rebuked the union's attempt to rewrite Atlas' contract by noting "innovative activist arbitral rewrites of Current Book language are bridges too far" and would be rejected. Arbitrator Eischen then proceeded to dismiss nearly every change to the Atlas CBA proposed by the union, as well as the union's request for a US\$125 million signing bonus. He further ordered a five-year pilot contract that will provide Atlas with stable labor costs for years to come. Atlas and Southern were very pleased with this outcome, which their CEO described as the most important issue facing the companies.
- **Cepton Technologies.** Advised automotive tech startup Cepton in its US\$1.5 billion business combination agreement with Growth Capital Acquisition Corp., a publicly traded special purpose acquisition company (SPAC), and related concurrent private placement transactions. Cepton develops lidar technology for autonomous vehicles and other applications. O'Melveny has represented Cepton since its incorporation in 2016.
- **IAA.** Counseled IAA, a digital marketplace for vehicle buyers and sellers, on its US\$310 million (£225 million) acquisition of Synetiq, a UK salvage and vehicle dismantling company.

- **Kia.** Achieved victory for Kia in a putative class action alleging defects in the panoramic sunroof glass of numerous Kia models. The road to victory was long and hard-fought. Plaintiff filed suit in 2015 and both sides conducted extensive discovery, including over a dozen depositions across the United States and in Korea, followed by multiple rounds of briefing on plaintiff's motion for class certification—all alongside a pending NHTSA investigation. Finally, in September 2020, in the midst of the global pandemic, the district court conducted a two-hour in-person oral argument in Cincinnati, Ohio on plaintiff's motion for class certification and on various related *Daubert* motions that had been filed by the parties. District Judge Matthew McFarland agreed with the evidence and arguments O'Melveny presented, denied plaintiff's motion for class certification, and granted Kia's motion to exclude the testimony of plaintiff's two glass experts as unreliable under *Daubert*. In March 2021, the Sixth Circuit denied the plaintiff's petition to appeal the district court's class certification decision. This landmark class certification ruling is the first of its kind in a string of similar lawsuits brought against numerous other manufacturers across the US, and will likely influence proceedings in parallel lawsuits filed by the same counsel against Kia in other jurisdictions alleging the same defect.
- **Port of Oakland.** Advised the Port on the issuance of US\$343.75 million senior lien bonds and US\$182.01 million intermediate lien bonds in two refinancing transactions that will provide more than US\$86 million in present value savings to the Port. O'Melveny also advised the Port on its defeasance and optional redemption of certain previously-issued revenue bonds in the principal amount of US\$24.5 million. A decades-long client, the Port oversees Oakland International Airport, the Oakland seaport, and approximately 20 miles of waterfront.
- **United Airlines.** Counseled United and its finance team, led by Citigroup Global Markets, on the issuance, through two simultaneous transactions, of US\$289.5 million of special facility revenue bonds issued for United's benefit by the City of Houston. The revenue bond proceeds are being used to finance the cost of construction of a new multi-terminal baggage handling system in Terminals C and E at George Bush Intercontinental Airport/Houston (IAH), as well as an early baggage storage system building and other related improvements. O'Melveny has represented United (and its predecessor, Continental Airlines) and its financing team in multiple financing transactions since 1990 to substantially expand and modernize the airline's facilities at the airport.

Project Finance Practice Group of the Year: 4-time winner—Law360

- **Zum Services.** Counseled the student transportation startup on its US\$130 million Series D funding round. Led by SoftBank, the funding raised Zum's valuation to near unicorn level. O'Melveny has advised Zum on various corporate matters over the years, including all of its financings.

OUTREACH THAT MAKES A DIFFERENCE

Pro Bono

81% Participation—67,652 Hours—106.7 Hours per lawyer on average—6.3% of total billable hours *US offices only

Pro Bono Hot List—2 Years Running—*National Law Journal*

- **Reproductive Rights.** Defended several challenges to a woman's reproductive rights, including:
 - Leading the charge with the ACLU, the ACLU of Arkansas, and the Planned Parenthood Federation of America in achieving a victory in the Eighth Circuit that blocked two abortion bans in Arkansas: a ban on abortion starting at 18 weeks of pregnancy, and a ban on abortion based on a patient's reason for seeking care.
 - Securing a preliminary injunction in the District Court for the Eastern District of Arkansas in a suit challenging four laws that imposed unlawful restrictions on a woman's right to exercise her reproductive rights. The district court's order thoroughly and clearly laid out the facts that O'Melveny developed, finding that allowing the challenged laws to take effect would mean that "abortions other than medical abortions would be essentially unavailable in the State of Arkansas."
 - Serving as co-counsel with the Center of Reproductive Rights and another law firm, O'Melveny represented the abortion provider in *Dobbs v. Jackson Women's Health Organization*, a US Supreme Court case challenging a Mississippi law that bans abortion after 15 weeks of pregnancy. The case poses a serious challenge to *Roe v. Wade* and access to abortion in large swaths of the United States. A decision is expected June 2022.

John H. Pickering Award in honor of the firm's "outstanding institutional commitment to pro bono and the inspiring pro bono performance of its lawyers and staff."—Pro Bono Institute

- **Limits on Government Search and Seizure.** Successfully argued *Lange v. California*, a US Supreme Court case that strengthens protections against warrantless entries into the home. At issue is whether the police violated the rights of a California man by pursuing him into his garage without a warrant for allegedly committing nothing more than traffic misdemeanors. Writing for the majority, Justice Elena Kagan said that "hot pursuit" of a suspected misdemeanor does not justify a warrantless entry of a person's home.

#2 on *Law360's Law Firm Scorecard*, a listing of firms that "won big" during the Supreme Court's 2020-2021 Term

- **Death Penalty.** Defeated a challenge to California Governor Gavin Newsom's moratorium on executions in the Golden State. A lawsuit filed in Sacramento Superior Court claimed the moratorium was an unconstitutional exercise of the governor's reprieve power. After we successfully argued that the plaintiff lacked standing to file suit, the court denied plaintiff's request for leave to amend his complaint and granted final judgment in favor of the governor and the California Department of Corrections and Rehabilitation. *Law360* covered the case in an article titled, "[O'Melveny Pro Bono Aid Helps Maintain Calif. Execution Ban.](#)"

[Top 5—The American Lawyer's Pro Bono Scorecard](#)

- **Public School Funding.** In a landmark trial that began in November 2021, an O'Melveny team has joined forces with the Public Interest Law Center of Philadelphia and the Education Law Center of Pennsylvania in a case that could change how Pennsylvania allocates funds for its public schools. The suit against the State of Pennsylvania challenges its failure to provide for a "thorough and efficient system of public education" as required by the Pennsylvania Constitution. Poorer districts in particular lack some of the most basic of educational necessities, resulting in low proficiency rates in science, math, and English for students in those districts. The four-month trial recently concluded, with the judge's ruling expected in the coming months. Any decision is likely to be reviewed by the Pennsylvania Supreme Court.
- **Supporting Special Needs Community.** Represented Pediatric Therapy Network (PTN) in its merger with United Cerebral Palsy of Los Angeles (now Momentum). The non-profit PTN works with children with special needs and medical conditions, providing therapies to increase their abilities so that they can live more fulfilling and independent lives. We have represented PTN in a number of matters over the years and several clients serve on PTN's board. PTN's merger partner, Momentum, serves adults with special needs and their families. Together, the combined organizations, under the Momentum banner, better serve the entire special needs community in Los Angeles.
- **Reuniting Separated Family.** Secured humanitarian parole for a father separated from his daughter at the US border. After three years of separation, the two were finally reunited in an emotional and touching reunion chronicled in [USA Today](#).

Social Responsibility

Our community-focused mindset is essential to our identity, driving the firm to do—and be—better.

Virtual Pro Bono Clinics. Jointly staffed 11 virtual pro bono clinics with O'Melveny attorneys and in-house counsel to provide a range of free legal services including expungements and discharge upgrades for veterans, assistance with DACA/citizenship applications, recoupment of past benefits for homeless individuals, advocacy in support of domestic violence victims, legal name and/or gender marker changes for transgender people, and conservatorships. Participating firm clients included Bank of America, Fannie Mae, Google, Kaiser Permanente, Trans Union, ViacomCBS, Wells Fargo, and Western Digital.

Racial Justice. In the wake of George Floyd's death, over two dozen peaceful protesters were arrested in Beverly Hills pursuant to an Emergency Order banning nighttime gatherings of 10 or more people in residential areas—but only where the gathering was for a “common purpose.” The Beverly Hills prosecutor proceeded with criminal charges despite surrounding cities’ election to forego prosecution given the import and peaceful nature of the protests. O'Melveny partnered with the National Lawyers Guild to represent a 22-year-old dancer with a spotless record and passion for advocacy, who was zip-tied and taken to jail after kneeling quietly at the protest. While developing arguments for our joint demurrer, we drafted a petition that received thousands of signatures and coordinated with local media outlets (including the *Los Angeles Times*) to publicize the unconstitutional nature of the charges. The court sustained our demurrer and deemed the order unconstitutional. Our client was able to go on with her life without the threat of a criminal record looming over her head.

Scholarships. Continuing its longstanding commitment to providing access to education, O'Melveny awarded more than US\$500,000 in [scholarships](#) this past year to dozens of students—in Los Angeles, New York, San Francisco, Shanghai, and Beijing—who excel academically but need financial help to realize their dreams of attending college. Over the past 30 years, O'Melveny has donated more than US\$10 million.

Environmental Sustainability. For the second year in a row, we joined with our client Humana and the nonprofit Wine To Water to build water filters for people who do not have access to clean drinking water, raising awareness of the dire need for clean water around the world. A group of 31 O'Melveny attorneys from six offices participated, alongside 32 members of the Humana legal team, assembling 500 water filters, which will provide clean water for 5,000 people over the next 10 years.

Honored for our philanthropy by: *San Francisco Business Times*, *Los Angeles Business Journal*, *Orange County Business Journal*, and *Washington Business Journal*

CULTURE

O'Melveny is devoted to cultivating a culture where every person can enjoy a sense of belonging and feel empowered to contribute and grow.

#1 on *The American Lawyer's A-List*, a designation of the “best of the best” based on revenue per lawyer, pro bono commitment, associate satisfaction, and racial and gender diversity

Diversity, equity, and inclusion are imperatives

In 2021, we took concrete actions to improve diversity and ensure that employees can bring their whole selves to work.

50 attorneys and staff professionals reviewed our key internal programs and processes—recruiting, lateral hiring, professional/career development, performance review, compensation programs, work assignments, and partner pipeline development—to identify structural bias and make recommendations to firm management for enhancing diversity, equity, and inclusion.

“Mansfield Certification Plus” awarded for exceptional diversity within leadership ranks—Diversity Lab—4th consecutive year

9 years in a row rated 100% on HRC’s Corporate Equality Index and also named a “Best Place to Work for LGBTQ Equality”

Bank of America’s 2021 Law Firm Diversity & Inclusion Award Winner—O’Melveny is the only law firm to be honored twice with this distinction, which recognizes the two companies’ shared DE&I commitment

Awarded Gold Standard Certification by the Women in Law Empowerment Forum—5th straight year

Leadership Council on Legal Diversity’s “Compass Award” for expanding opportunities for diverse attorneys—4 years running

2021 summer class 69% women and 58% people of color

Hiring and promoting diverse talent a priority:

- 50% of the firm’s four Department Chairs are lawyers of color
- Close to 50% of our Policy Committee—the firm’s board—are diverse
- Over 70% of our US managing partners are diverse
- More than 70% of our homegrown partner promotions in the US over the past six years have been diverse

Continued to build the firm's pipeline of diverse associates by admitting 10 highly accomplished William T. Coleman, Jr. Diversity Fellows to our 2021 summer associate program. Since the program's inception in 2017, we have named 27 Coleman Fellows: 3 are current associates, 3 are clerking, 1 is completing a public service fellowship, 4 have accepted new associate offers, all 10 of the 2021 1L Fellows will return for their 2L summer, and we will name 11 new 1L Fellows in 2022.

Highly ranked in associate surveys

Vault's associate survey:

- Best Law Firms to Work For - #2
- Overall Diversity - #2
- Best Summer Programs - #2
- Law Firm Culture - #2

Associates praise firm's "sustained career development and growth opportunities" as well as its "flexibility"

Top 3 AmLaw Midlevel Associates Survey—7th straight year in the top 4

Another strong showing in AmLaw's Summer Associates Survey thanks to the firm's "innovative work and efforts to promote social cohesion even in mostly remote settings"

Among Law360's top 10 "dream" firms—those firms that top students' lists of most desirable places to spend a summer

Lawyers "friendly, fun and incredibly sharp," says summer associate

Work-life integration valued

O'Melveny "a firm with a history of caring about their employees' well being"—*Above the Law*

Our commitment to a culture of caring was evident as our Living Well program grew and included a number of programs and activities in 2021, among them:

- Celebrated World Mental Health Day by offering access to a number of mental health resources, including CCA's free, online learning event, "Mental Health: Real, Personal, and Transformative."
- Offered workshops titled "Leading with Empathy," exploring the importance of empathy in our daily interactions.
- Continued our work with Ian Shea of I M Human who adapted his Life Moments and Personal Connections workshops for virtual participation. These sessions create safe spaces for our people to connect, share, and support one another.
- Introduced new well being thought leaders to the firm including Patrick Krill, a leading authority on addiction, mental health, and well being in the legal profession, and Nora Minno, a renowned nutritionist.
- Expanded support from Bright Horizons, our vendor for back-up care, to assist colleagues dealing with elder and child care issues exacerbated by the ongoing challenges of the pandemic.

O'Melveny decides "to go big" on Peloton—*Law.com*

- First law firm to offer the Peloton Corporate Wellness program—free access to Peloton's digital workout platform, a reduced monthly rate for the all-access membership, as well as subsidized prices for its exercise equipment—to lawyers and staff. Legal trade publications commended our initiative, noting the critical importance of wellness during these challenging times.

INNOVATION AND EFFICIENCY

#1 for technology—2 Years Running—*The American Lawyer's Midlevel Associates Survey*

Advanced Technology

A trio of proprietary technologies increases efficiency, lowers cost, and improves quality in the delivery of legal services:

- **ommni.** More than a browser or search engine, ommni is a powerful intranet platform that is the source for just about everything at the firm—it provides up-to-the-minute information on financials, case management, client and matter profiles, internal expertise, research, and all relevant client and precedent documents.

O'Melveny "stands out for its use of innovative tools."—*US Legal 500*

- **OMMLit.** A crowd-sourced litigation playbook and just-in-time learning system, OMMLit divides the litigation process into 400 of the most commonly performed tasks, then pairs each task with the recommended staffing and most efficient method.

O'Melveny has "invested heavily in its internal technological infrastructure, including data science and AI-based information systems, in order to improve team efficiency."—*US Legal 500*

- **OMMNIscient.** Our latest innovative platform, OMMNIscient, delivers to lawyers relevant information by email at different stages of a deal's or dispute's lifecycle—even before they realize they might need it—using a combination of enterprise software and push technology. For example, our OMMNIscient staffing application "knows" whenever a new client matter is opened and automatically sends the firm's work coordinators a customized report to help make staffing recommendations based on subject matter expertise, availability, location, and seniority. Another noteworthy OMMNIscient application, called "Instant Judge Reports," lists the O'Melveny lawyers who clerked for a given judge and those who recently appeared before the judge in a case. The Instant Judge Report also provides detailed analytics about the judge's cases and outcomes, and a link to the judge's website.

"The infrastructure of the firm is very strong allowing them to be nimble and have access to all resources needed for superior legal representation."—*US Legal 500*

People Power

Our innovative use of staffing resources also benefits clients.

- **Staff and Contract Attorneys.** Lawyers are trained to identify opportunities to delegate targeted tasks to lower-cost resources, including staff lawyers and technical specialists—full-time employees of the firm whose sole function is to design, manage, and supervise document review projects of any size and scope. Although many have more than a decade's experience, their billable rates remain lower than first-year associates. Our staff attorneys manage a cadre of O'Melveny-trained contract attorneys whom we offer at hourly rates that compete with the lowest-cost document review options.
- **Legal Project Managers.** We employ a dedicated team of legal project managers (at no charge to our clients) to assist with staffing, budgeting, and case management.

50% of the firm's top 50 clients utilize creative fee arrangements

- **Editorial Team.** We are the only major law firm to employ a Pulitzer Prize-winning journalist to help craft the most compelling arguments for our clients. Billed at an hourly rate well below that of a junior associate, our in-house editor collaborates with attorneys to develop narratives, frame issues, and sharpen written work product. As a result, initial drafts become polished briefs more swiftly and efficiently—and clients receive better-written work at a lower cost. The results have been so successful that the firm hired two more editors as writing coaches.

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