

Paul J. Riehle
Partner, San Francisco, California

Antitrust and Unfair Competition Litigation
 Complex Commercial and Complex Tort Litigation
 Class Actions and Multidistrict Litigation



PAUL J. RIEHLE

415.627.1554 direct tel

415.781.2635 fax

paul.riehle@sedgwicklaw.com

Biography

Paul Riehle is a partner in Sedgwick's San Francisco office, chairs the firm's Antitrust & Unfair Competition Practice Group and co-chairs its Franchise, Dealer and Distributor Practice Group. He is a Vice Chair of the California State Bar Antitrust and Unfair Competition Law Section Executive Committee, as well as a member of Sedgwick's class action, healthcare and hospitality task forces. He also has extensive experience litigating multi-party toxic tort cases.

Mr. Riehle was Student Body President at the University of Notre Dame and Editor-in-Chief of the *Hastings Constitutional Law Quarterly*. He is a founding board member of an international humanitarian nonprofit organization and is President of the Board of Directors of its United States affiliate. He also serves as a judicial arbitrator and as a mediator.

Litigation Matters

- Summary judgment regarding claims of industry wide price-fixing under California's Cartwright Act and Unfair Competition Law. In 2010, the California Supreme Court reversed summary judgment based on the pass-on defense, an issue of first impression under California antitrust and unfair competition law *Clayworth v. Pfizer, Inc.*, 49 Cal.4th 758 (2010) *reversing* 165 Cal.App.4th 209 (2008). In 2011, after remand, the trial court again granted summary judgment, this time ruling that defendants' evidence showed that prices were independently determined and plaintiffs failed to raise a triable issue of fact regarding the existence of the alleged conspiracy.
- Dismissal of drug pricing overcharge claims. *County of Santa Clara v. Astra USA, Inc.*, 563 U.S. ___ (2011) (rejecting third party beneficiary contract claims) *reversing* 588 F.3rd 1237 (9th Cir. 2009) *modifying* 540 F.3d 1094 (9th Cir. 2008); *see also* 257 F.R.D. 207 (N.D.Cal. 2009) (denying class certification); 428 F. Supp. 2d 1029 (N.D. Cal. 2006)(dismissing breach of third party contract, unfair competition, False Claims Act and

other causes of action); and 401 F. Supp. 2d 1022 (N.D. Cal. 2005) (finding federal question jurisdiction though plaintiff pled only state law claims).

- Dismissal of third amended complaint without leave to amend as to a putative class action brought against an automobile manufacturer alleging unfair competition, breach of express and implied warranties, violation of the California Consumer Legal Remedies Act, concealment and misrepresentation. Currently on appeal.
- Defense verdict in a distributor termination case tried in Silicon Valley where the plaintiff asserted tens of millions of dollars in compensatory damages and punitive damages against a Fortune 500 company.
- Summary adjudication of antitrust and other claims brought by a distributor against an office furniture manufacturer followed by settlement of the remaining claims for a small fraction of the alleged damages.
- Mr. Riehle successfully defended an insurer in three cases alleging bid rigging and illegal payments to an insurance broker. A putative class action in federal court alleging antitrust and RICO violations and a state court case alleging unfair competition were each dismissed without payment. A third case brought on behalf of the California Insurance Commissioner was settled on favorable terms.
- *Menjivar v. TP, LLC*, 2006 WL 2884396 (N.D. Cal. 2006) (dismissing RICO and fraud claims).
- *Tate v. Pacific Gas & Elec. Co.*, 94 Fed. App. 529 (9th Cir. 2004), 2004 WL 626551 (C.A.9(Cal.)) *affirming* 230 F. Supp. 2d 1072 (N.D. Cal. 2002) (dismissing all but one antitrust claim and all RICO claims) and 230 F. Supp. 2d 1086 (summary judgment on remaining antitrust claim of attempted monopolization).
- *Hyper Corporation v. TUV Rhineland of North America, Inc.*, 2004 WL 5494878. Mr. Riehle and Sedgwick were brought in to try the punitive damages phase of an unfair competition and antitrust case involving Bluetooth technology after the jury returned a \$7.5 million verdict and a unanimous finding of fraud, malice and oppression. In the second phase of the trial, the jury awarded only 1.3% of the compensatory verdict. The trial court then granted Mr. Riehle's new trial motion and the Court of Appeal affirmed, thereby wiping out the verdict in its entirety.
- *Ferris v. Gatke Corp.*, 107 Cal. App. 4th 1211 (2003) (affirming nonsuit regarding claims for market share liability and civil conspiracy to defraud through the manipulation of scientific literature).
- *Chavers v. Gatke Corp.*, 107 Cal. App. 4th 606 (2003) (affirming jury verdict under civil conspiracy theory of liability).
- *Coast Marine and Industrial Supply, Inc. v. DBC Marine Safety Systems, Inc.*, 2003 WL 23874049 (dismissing dealer's Robinson-Patman Act, contract, implied covenant of good faith and fair dealing, tortious interference with contractual relations, intentional interference with business expectancy, equitable estoppel and tortious termination of contract claims).
- *In re Methionine Antitrust Litigation*, MDL 1311. Mr. Riehle was part of a team that defended a leading amino acid manufacturer in a consolidated multidistrict class action litigation alleging that defendants conspired to fix the prices for methionine-based products in the United States and internationally.

- Successful defense of a national automotive tool manufacturing company in more than 50 cases brought by dealers alleging violation of the Seller Assisted Marketing Plan Act and other claims.
- *Vasen v. Asbestos Defendants*, 2001 WL 35817327 and 2001 WL 35817328 (summary judgment on behalf of two different friction manufacturers regarding products liability, market share liability and conspiracy claims).
- Summary judgment in favor of a distributor sued by a sales agent under the Independent Wholesale Sales Representative Contractual Relations Act. Mr. Riehle also obtained reimbursement of his client's attorneys' fees from the plaintiff.
- *In re Sorbates Antitrust Litigation*. Dismissal without payment of a defendant in consolidated class actions involving claims of an international price fixing conspiracy
- *Pharmaceutical Cases I, II and III*, J.C.C.P. Nos. 2969, 2971 & 2972 (San Francisco Superior Court). Defense of a pharmaceutical company that, along with many other pharmaceutical manufacturers, was sued for alleged antitrust violations with respect to the price of brand name prescription drugs. California consumer class *cy pres* settlement.
- Obtained and collected on a \$6.5 million Arizona federal court jury award in a fraud case transferred as a tag-along action to *In re Washington Public Power Supply System Securities Litigation*, MDL 551.
- Successful state court jury trial representing national franchisor in claims brought by franchisee relating to territorial exclusivity.
- Counseling with respect to antitrust issues and claims in the healthcare arena.
- Advice in connection with responding to subpoenas by the Department of Justice and the Federal Trade Commission.
- In difficult cases under adverse circumstances, Mr. Riehle has been brought to handle post-trial motions (*e.g.*, *Hyper v. TUV*, 2004 WL 5494878 (discussed above) and *Chavers v. Gatke*, 2000 WL 35545379)) or the appeal (*e.g.*, *Bierlich v. BW, Inc.*, 2003 WL 22022030 (Cal.App. 2 Dist.)).

Education

While an undergraduate at the University of Notre Dame, Mr. Riehle was Student Body President. He received his B.A. (1981), *cum laude*. His J.D. (1984) was conferred by the University of California, Hastings College of the Law, where he served as Editor-in-Chief of the *Hastings Constitutional Law Quarterly*.

Accomplishments and Affiliations

Mr. Riehle is a member of the California Bar Association and a Vice Chair for the Executive Committee for the Antitrust and Unfair Competition Law Section. He is also a member of the American Bar Association, including the Antitrust and Litigation Sections; the Defense Research Institute; the Association of Business Trial Lawyers of

Northern California; and the Bar Association of San Francisco. He is admitted to practice before all California state courts, as well as the United States District Court for the Northern, Eastern, Central and Southern Districts of California, the Ninth Circuit Court of Appeals and the United States Supreme Court.

Mr. Riehle is a founding member of the International Board of Directors of SurfAid International, a 10 year old humanitarian relief organization that is the parent of SurfAid entities in the United States, Australia, New Zealand and Indonesia. He also is Board President and a founding member of the Board of Directors of SurfAid International, USA, a federal non-profit corporation. SurfAid is a community development organization that runs health, malaria eradication, disaster preparedness, and water and sanitation programs in the Mentawai Islands, 150 km off Indonesia's West Sumatran Coast, and Nias Island, 125 km off the North Sumatran Coast.

Mr. Riehle is acknowledged with a peer review rating of AV, the highest rating in legal ability and ethical standards, as reported in the Martindale-Hubbell Law Directory.

Publications and Presentations

- "Summary of Recent Antitrust and Unfair Competition Law Decisions," E-Brief for the Antitrust and Unfair Competition Law Section of the State Bar of California (October 26, 2011, January 18, 2012 and April 3, 2012).
- "Ninth Circuit Decertifies Nationwide Class Under California Unfair Competition Laws," Sedgwick's *Class Action Alert* (January 17, 2012) (discussing the Ninth Circuit's decision in *Mazza v. American Honda Motor Company, Inc.*, 666 F.3d 581 (9th Cir. 2012)).
- Mr. Riehle was an editor for the Fall and Spring 2011 issues of "*Competition*," The Journal of the Antitrust and Unfair Competition Law Section of the State Bar of California.
- "Punitive Damages in Asbestos Litigation," Perrin Conference, San Francisco (September 19, 2011).
- "A Primer on California Competition Law," The 84th Annual Meeting of The State Bar of California, San Francisco (September 17, 2011).
- "National Class Action Suit Challenges Hotel Group's Disclosure of Guest Newspaper Fees," Sedgwick's *Hospitality Industry Alert* (August 2011).
- "FDA Announces New Rules About Sunscreen Labeling," Sedgwick's *Class Action Alert* (June 2011).
- "Agencies Propose Antitrust Enforcement Policy for ACOs," Sedgwick's *Healthcare Law Newsletter* (Spring 2011).
- "*Kwikset*: Labels Matter, But No Reset to Pre-Prop. 64," *Daily Journal*, (March 28, 2011) (analyzing the California Supreme Court's decision in *Kwikset* and its implications for individual and class action claims brought under California's unfair competition law and false advertising law).

- “The Meaning and Importance to MPL Insurers of the Antitrust Exemption Provided by the McCarran-Ferguson Act,” Physician Insurers Association of America, Corporate Counsel Section Meeting, San Diego (November 4, 2010).
- “Advanced Principles: UCL Remedies and Defenses,” California State Bar Antitrust and Unfair Competition Section, San Francisco (October 21, 2010). Mr. Riehle presented the defense perspective on the limits to the extraterritorial reach of California’s Unfair Competition Law (“UCL”), how restitution is measured under the UCL, and the impact of *Clayworth v. Pfizer, Inc.*, 49 Cal.4th 758 (2010) on the injunctive relief remedy under the UCL.
- “NFL Sacked by the Sherman Antitrust Act,” *MediaLawLetter*, Media Law Resource Center (September 2010).
- “Overview of Antitrust Issues For Health Insurers, Including the Impact of Pending Legislation,” Sedgwick Annual Healthcare Seminar Series, Hartford, CT (September 22, 2010) and Los Angeles, Orange County and San Francisco (May 24-25, 2010).
- Mr. Riehle is a co-author of the chapter “Standing, Damages and Injunctive Relief Under the Cartwright Act,” Antitrust and Unfair Competition Law Section, The State Bar of California, California Antitrust and Unfair Competition Law, Ch. 14 (Cheryl Lee Johnson, ed., Matthew Bender & Co. 2009).
- “FTC – Doctors’ Group Settle Antitrust Charges,” Sedgwick’s *Healthcare Law Newsletter* (Winter 2009/2010).
- “California Appellate Decision Applies Collateral Source Rule to Health Care Provider Negotiated Fee Discounts,” Sedgwick’s *Healthcare Law Alert* and *Insurance Law Flash* (December 2009).
- “Generic Biologics Legislation Moves Forward in the House and Senate,” Sedgwick’s *Issue Tracker* (September 22, 2009).
- “A Review of Developments in the Assault on Reverse Settlements, Including a Major Change in DOJ’s Position,” Sedgwick’s *Issue Tracker* (July 31, 2009).
- “Products Liability for Third Party Replacement or Connected Parts: Changing Tides from the West,” *University of San Francisco Law Review* (V. 44, No. 1, Summer 2009), coauthored with Sedgwick attorneys.
- California Supreme Court Lowers Bar for Bringing Class Actions Under Unfair Competition Law,” Sedgwick’s *Class Action Alert*, (May 21, 2009) (discussing the California Supreme Court’s decision in *In Re Tobacco II Cases*, 46 Cal.4th 298 (2009)).
- “The Other Drug War,” *Daily Journal*, (March 4, 2009) (discussing the Obama Administration’s plans for antitrust challenges of reverse settlements between brand name and generic drug manufacturers).
- “Exemption Exceptions,” *Daily Journal*, (March 3, 2009) (discussing the Obama Administration’s support of the elimination of the McCarran-Ferguson Act’s antitrust exemption for insurance companies).
- Mr. Riehle authored the chapter “Negotiating for the Most Successful Settlement,” Antitrust Dispute Resolution: Leading Lawyers on Best Practices for Resolving Antitrust Matters Through Negotiations (Aspatore Books, 2007).

- “The Impact of Proposition 64 and the Class Action Fairness Act on California Unfair Competition Claims” (Co-Chair), Practising Law Institute (May 10, 2005).
- “California Unfair Competition Law and How Proposition 64 Has Changed It” Seminars for High Technology and Energy Companies (2004-2005).
- In January 2005, Mr. Riehle was featured in articles in *The Recorder*, the *Daily Journal* and the *San Francisco Chronicle* regarding SurfAid’s tsunami relief effort.
- The *Daily Journal* published an article on July 6, 2007 about Mr. Riehle’s humanitarian work.
- Mr. Riehle was quoted and photographed in the March 27, 2008 ABC News story “Surf’s Up on a Geologic Time Bomb,” which profiled the critical role that SurfAid plays in the earthquake-afflicted Mentawai Islands.