



## David R. Garcia

Partner

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### PRACTICE AREAS

- Antitrust and Trade Regulation
- Entertainment, Media and Technology
- Litigation
- International Practice

### INDUSTRIES

- Entertainment, Media and Technology
- Healthcare

### OVERVIEW

David is a partner in Sheppard, Mullin, Richter & Hampton LLP's Century City office, where he is also the Office Administrative Partner. He is a litigator with a broad background in complex civil litigation for major U.S. companies, including extensive class action and multidistrict litigation experience. His practice focuses on litigation and counseling in the areas of antitrust and securities with particular emphasis on the entertainment industry, the intersection between antitrust and intellectual property disputes and healthcare.

### Areas of Practice

In the antitrust area, his practice has included extensive private litigation, price fixing cartel defense, counseling on joint ventures and mergers and acquisitions, competitor collaborations in healthcare, standard setting, trade association work, vertical pricing and distribution issues and the representation of clients in connection with civil and criminal investigations by the Federal Trade Commission and the antitrust division of the U.S. Department of Justice. This broad ranging antitrust litigation background includes major matters involving monopolization, price fixing conspiracies, standard setting, state action immunity, and contested mergers. He also counsels and litigates in a variety of vertical distribution situations, including dealer termination, vertical pricing restrictions and franchise issues. His vertical counseling and litigation experience also includes multilevel marketing organizations. Finally, he is very active in healthcare mergers and acquisitions and strategic partnerships, including clinical integrations.

Clients for whom he has worked include: Samsung, Epson America, China Mobile, Sprint, Carrier Airconditioning, Herbalife, Amgen, Barnes & Noble, Time Warner, Warner Home Video, The Digital Cinema Initiative, LLC, Playboy Enterprises, Inc., Advanced Micro Devices, Southern California Edison, and a variety of California physician groups and for profit and non profit hospitals.

His wide-ranging securities practice, first in New York and later in California, has included class action defense, the defense of derivative litigation on behalf of both individuals and companies, litigation arising out of mergers and acquisitions, and internal corporate investigations. He has also had extensive experience representing companies and individuals in investigations commenced by the Securities and Exchange Commission.

Companies for whom he has worked in the securities area include: Credit Suisse; First Boston; The Special Committee of the Board of Diamond Multimedia, Inc.; BT Securities; Montgomery Securities; Bank of America; the outside directors of FarWest Financial

Savings & Loan; Advanced Micro Devices; Davstar Incorporated; Smith Barney; General Electric Credit Corporation; Humana, Inc.; Northwest Airlines; Shamrock Partners; and United Airlines.

**EDUCATION**

- J.D., Georgetown University, 1979
- B.A., Harvard University, 1976, *cum laude*

**CLERKSHIPS**

- Law clerk to the Honorable Constance Baker Motley, U.S. District Judge, Southern District of New York, 1981-82

**ADMISSIONS**

- California
- New York
- Washington, D.C.
- Florida
- U.S. District Court, Northern and Central Districts of California
- U.S. District Court, Southern and Eastern Districts of New York
- U.S. District Court, District of Columbia
- U.S. Court of Appeals, Second, Sixth, Ninth, and District of Columbia Circuits

**EXPERIENCE**

Represented Samsung in horizontal boycott, litigation involving Rambus, and price fixing class action litigation

Providing antitrust counseling to Carrier Airconditioning in distributorship restriction in the western United States

Representing Herbalife in a variety of vertical distributorship issues

Represented Amgen in potential antitrust litigation against a competitor arising out of a prior patent infringement settlement

Providing antitrust and general outside advice and counseling to the Digital Cinema Initiative, a joint venture of the seven major movie studios created to establish performance and digital security specifications for the transmission and exhibition of digital cinema, and to explore business models for encouraging digital cinema implementation

Defended Warner Home Video in a nationwide class action and related federal and state cases brought by independent video rental retailers claiming a group boycott and price fixing in connection with contracts entered into between movie studios, including Warner Home Video, and a national home video rental chain

Assisted in defense of California state court antitrust and certain competition claims against Samsung by competitor

Represented the Digital Cinema Committee of Motion Picture Association of America in connection with antitrust issues relating to digital cinema transmission, security and exhibition issues

Part of team defending The Gator Corporation in multidistrict nationwide direct and class action attacks on Gator's targeted internet advertising business model under the Copyright Act, the Lanham Act and state unfair competition law

Represented entertainment companies in multidistrict antitrust litigation involving alleged antitrust violations by internet service providers allegedly tying ISP and cable television services

Represented internet companies, including search engine operators and sellers of internet advertising, in multidistrict antitrust litigation arising out of patent claims, and antitrust advice and counseling relating to distribution of advertising through affiliation agreements

Defended Metro-Goldwyn-Mayer in copyright and trademark litigation arising out of a dispute with Samuel Goldwyn, Jr., the son of one of MGM's founders

Provide continuing antitrust advice to a number of movie studios concerning vertical competition issues, such as exclusive dealing and differential pricing in various market segments, including E-commerce, theatrical distribution, and consumer product marketing

Represented Barnes & Noble in Robinson Patman multidistrict litigation brought by the American Booksellers Association and various individually owned bookstores throughout the United States, including trial of that action which settled during the plaintiffs' case

Represented Advanced Micro Devices in the formulation and prosecution of a monopolization claim against a major competitor and defense of multidistrict claim litigation with that competitor

Defended Southern California Edison against multidistrict claims by competitors in related, but unregulated, business segment and ultimately defeated the claims on state action immunity grounds

Represented Credit Suisse First Boston in connection with litigation and SEC enforcement activity arising out of First Boston's role as an underwriter of bonds for Orange County prior to the County's declaration of bankruptcy

Represented the directors of Primadonna Resorts in class and derivative litigation arising out of the sale of the Primadonna Resorts to MGM Grand Incorporated

Represented Advance Micro Devices in a class action litigation relating to disclosures concerning microprocessor development

Represented medical products device manufacturers in connection with class action litigation concerning the timing of announcements concerning FDA approval of new medical devices

Represented major commercial banks and savings and loans in connection with loan loss reserve and revenue recognition litigation

## **ARTICLES**

- No Mandatory Antitrust Review For ACOs, *The Recorder*, November 10, 2011
- Levels of antitrust scrutiny for ACOs, *The Recorder*, April 18, 2011

- Health Care Reform May Prompt Antitrust Violations, *The Recorder*, February 21, 2011
- Law is in Flux Over Internal Governance of Foreign Firms, March 31, 2006

**Antitrust Blog Articles**

- "*In re American Express Merchants' Litigation* - Plaintiffs Survive Three Rounds In The Second Circuit, But Can They Survive The Supreme Court?" February 7, 2012

**SPEECHES**

- Lecturer, ABA Class Action Section, Antitrust Panel
- Lecturer, California State Bar, Antitrust Section