



Philip F. Atkins-Pattenson

Partner

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PRACTICE AREAS

- Litigation
- Land Use and Natural Resources

INDUSTRIES

- Financial Services
- Insurance

OVERVIEW

Phil Atkins-Pattenson is a partner in the Business Trial Practice Group in the firm's San Francisco office. In 2007, he was recognized by *California Lawyer* magazine as one of its Attorneys of the Year (CLAY).

Areas of Practice

Mr. Atkins-Pattenson concentrates in complex business litigation. He represents clients in a wide variety of industries in cases involving unfair competition, securities, business torts, intellectual property, partnership and fiduciary duty litigation, and real estate and land use litigation. He has handled significant class actions, derivative and other representative litigation, as well as significant environmental litigation involving CEQA, NEPA and the ESA.

EDUCATION

- J.D., University of San Francisco, 1980, Articles Editor, *Law Review*
- Masters of Divinity, Harvard University, 1977 (Rockefeller Fellow)
- A.B., Stanford University, 1974

ADMISSIONS

- California
- U.S. District Court for the Northern, Eastern, Central and Southern Districts of California
- U.S. Court of Appeals for the Ninth Circuit

EXPERIENCE

Representative Litigation Experience

In the area of complex business litigation:

Mr. Atkins-Pattenson represented State Compensation Insurance Fund in a 7 month trial in San Francisco Superior Court of a \$2 billion class action for bad faith, fraud and unfair competition. The Court's 117-page Statement of Decision found for State Fund on all causes of action. This is one of the largest class actions ever to be tried in California state court. In 2006, the California Court of Appeal affirmed the Judgment in all respects.

Mr. Atkins-Pattenson represents Mobile Messenger, a leading global provider of technology and services for mobile content management, in several consumer class actions

relating to wireless subscription charges.

Mr. Atkins-Pattenson represents several international airlines in consumer class actions in state and federal courts involving claims for unfair competition and RICO arising from the collection of a tourism fee for travel to Mexico.

Mr. Atkins-Pattenson is representing Taylor Morrison, a national homebuilder, in a nationwide consumer class action in federal court involving alleged violations of the Real Estate Settlement Procedures Act (RESPA).

Mr. Atkins-Pattenson represented a primary and excess carrier in a Phase I jury trial in a complex insurance coverage action in San Francisco Superior Court involving a national paint manufacturer's claims for coverage for its asbestos liabilities.

Mr. Atkins-Pattenson successfully defended National Medical Health Card Systems, a national pharmacy benefits manager, in defense of discrimination claims under California's Unruh Act by Vietnamese-American owned pharmacies in Orange County.

Mr. Atkins-Pattenson regularly represents Georgia-Pacific Corporation in California litigation matters, including the successful defense of a fraud action in Mendocino Superior Court (defense verdict and award of attorneys' fees), and defense of 17 coordinated class actions in San Francisco Superior Court alleging price-fixing of commercial paper products under the Cartwright Act and Business and Professions Code Section 17200.

In the area of real estate and land use litigation:

Mr. Atkins-Pattenson represents California Gold Development Corp., the developer securing entitlements for a Lowe's home improvement center in Sonora, California in a CEQA lawsuit.

Mr. Atkins-Pattenson represents Regency Centers Corporation, a leading national shopping center developer, in connection with a CEQA lawsuit challenging approvals for its center in Atwater, California.

Mr. Atkins-Pattenson represents Zelman Development Company, a leading regional developer of industrial parks and shopping centers, in connection with a CEQA lawsuit challenging approvals for its center in Madera, California.

Mr. Atkins-Pattenson represents DHL Express (USA), Inc., a leading international overnight freight carrier, in connection with CEQA and related issues at its regional hub at March Air Reserve Base in Riverside, California.

Mr. Atkins-Pattenson represents the City and County of San Francisco (including the Port of San Francisco) in quiet title litigation relating to the public trust.

Mr. Atkins-Pattenson represents Stonebrae L.P., the master developer of a luxury residential development in Hayward, California, in real estate litigation with a national home builder relating to the failure to complete the purchase of finished lots.

Mr. Atkins-Pattenson represents property owners in a CEQA challenge to the EIR for Redwood's City's Downtown Precise Plan.

Mr. Atkins-Pattenson represents Maria Vista Estates, the developer of a master planned residential development in Santa Maria, California, in a § 1983 lawsuit relating to the County of San Luis Obispo's failure to timely issue final approvals required for occupancy.

Mr. Atkins-Pattenson represented Callahan DeSilva LLC, the developer of the mixed use waterfront redevelopment project in downtown Vallejo, California in a CEQA lawsuit challenging the EIR for the project.

Mr. Atkins-Pattenson successfully defended YCS Investments, Inc., the developer of a master planned community and golf course on a 1,600 acre site in the Walpert Ridge, Hayward, California against parallel lawsuits in state and federal court challenging the local and federal approvals of the project under CEQA and the ESA. In the CEQA case, the Superior Court denied the writ petition in all respects; in the ESA case, the District Court granted summary judgment in favor of our client.

Mr. Atkins-Pattenson successfully defended the Corporation of Fine Arts in defense of a CEQA lawsuit challenging the approvals for San Francisco's new M.H. de Young Museum in Golden Gate Park.

Reported Decisions

Natural Resources Defense Council v. Patterson, 791 F.Supp. 1425 (E.D. Cal. 1992); *Natural Resources Defense Council v. Houston*, 146 F.3d 1118 (9th Cir. 1998), *cert. denied* 526 U.S. 1111 (1999) (affirming summary judgment for ESA violation); *Natural Resources Defense Council v. Rodgers*, 333 F. Supp.2d 906 (E.D. Cal. 2004)(granting summary judgment that Bureau of Reclamation's operation of Friant Dam violated California Fish and Game Code Section 5937)

Orff v. United States, 358 F.3d 1137 (9th Cir. 2004), *affirmed* 545 U.S. 596 (2005)(affirming judgment of no subject matter jurisdiction for lack of waiver of sovereign immunity)

In re Convergent Technologies Securities Litigation , 948 F.2d 507 (9th Cir. 1991)(affirming summary judgement in Rule 10b-5 class action)

In re Convergent Technologies Second Half 1984 Securities Litigation, [1991-92] Fed. Sec. L. Rep. (CCH) Paragraph 96,211 (9th Cir. 1991) (affirming summary judgment in Rule 10b-5 class action)

Bily v. Arthur Young (1992) 3 Cal.4th 370 (holding accountants owe no duty to non-client third parties) (represented California Society of CPAs as *amicus*)

Mirkin v. Wasserman (1993) 5 Cal..4th 370 (rejecting "fraud-on-the-market" theory of reliance for common law claims) (represented California Society of CPAs as *amicus*)

HONORS

- Attorney of the Year (CLAY), *California Lawyer* magazine, 2007
- Finalist, Lawdragon 500 Leading Lawyers In America, *Lawdragon* magazine, 2007
- Northern California Super Lawyers, Business Litigation, *San Francisco Magazine*, 2004-2008
- Sheppard Mullin *Pro Bono* Attorney of the Year, 2007

ARTICLES

- Top Verdicts of 2009 - Clearing the Way for Urban In-Fill, *Daily Journal*, February 3, 2010
- Mr. Atkins-Pattenson has authored articles on business litigation topics for the Practicing Law Institute and served on its program faculty.