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alumni news

SheppardMullin

SPRING 2018

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STATS AND FACTS

810

Sheppard Mullin lawyers globally

16

Offices in
5 countries

28

Industry teams

27

Blogs

1,140

Alumni in our network

GREETINGS FROM THE CHAIR

Sheppard Mullin is excited to announce the opening of our 16th office – in Dallas, Texas! Our latest venture currently includes ten partners, with plans to grow:



Jennifer Klein Ayers
(Intellectual Property, from K&L Gates)



Carolyn Benson
(Real Estate, from Quilling, Selander)



Gemma Descoteaux
(Corporate, from Polsinelli)



Steve Fox
(Labor & Employment/
Business Trials, from Polsinelli)



Dwight Francis
(Litigation, from Gardere Wynne)



Yvette Mabbun
(Real Estate, from Quilling, Selander)



Bill Mateja
(White Collar, from Polsinelli)



Jason Mueller
(Intellectual Property, from Locke Lord)



Steve Schortgen
(Intellectual Property, from K&L Gates)



Evan Williams
(Corporate/Funds Formation, from Hunton & Williams)

Our Dallas expansion offers the opportunity to better serve not only our existing Texas and Southwest-based clients, but any of our clients on a national scale. If you'd like to learn more about our Texas office, please contact Dallas Office Managing Partners Steve Fox or Steve Schortgen or Hiring Partner Gemma Descoteaux at (469) 391-7400. Until then, happy trails to y'all.



Guy Halgren
Chair
ghalgren@sheppardmullin.com

ALUMNI SPOTLIGHT INTERVIEW



Jay Kinn

Senior Vice President Technology Legal
Warner Bros. Entertainment Inc.

Formerly Real Estate Group,
Los Angeles Office, Sheppard Mullin

We are delighted to profile former Sheppard Mullin lawyer, **Jay Kinn**, Senior Vice President Technology Legal at Warner Bros. Entertainment Inc. in Burbank, California.

Career Path

Jay was an associate in Sheppard Mullin's Real Estate Group in Los Angeles from 1990 to 1997, focused on real estate secured financial transactions. During his time at the firm, he also served on the firm's recruiting and diversity committees, and as a board member of the Legal Aid Foundation of Los Angeles. A graduate of St. Olaf College, he received his law degree from the University of Minnesota Law School.

Jay learned of the Warner Bros. job opportunity through the work that one of Sheppard Mullin's antitrust partners was doing for Warner's home entertainment group. Warner Bros., founded by the four brothers Harry, Albert, Sam and Jack in Hollywood in 1923, moved to its current Burbank studio lot headquarters in 1928. Warner Bros. is a division of Time Warner Inc., headquartered in New York.

At Warner Bros. Home Entertainment, Jay worked on the acquisition of filmed entertainment properties and distribution matters. His acquisition work included distribution rights to such properties as the MGM library, the Paramount theatrical catalog of films, the Peanuts animation library, and classic Popeye theatrical and television shorts. He also handled major manufacturing and pick/pack/ship deals for Warner's DVDs and Blu-ray discs around the world.

Jay left the home entertainment group three years ago to start up a new Warner Bros. Technology Legal Group.

Roles and Responsibilities

Warner Bros. Technology Legal is a corporate legal group that services all Warner operating divisions, including Home Entertainment, Theatrical Production, Television Production, and Theatrical and Television Distribution. Technology Legal is

divided into two halves – Jay heads up one side and another Sheppard Mullin alum, Nancy Corshen, heads up the other.

Jay's side of Technology Legal focuses on five areas:

1. Emerging technologies, such as augmented reality/virtual reality, artificial intelligence for entertainment production, the Internet of Things, and autonomous and connected vehicles (for example, what people will be looking at in their windshield in self-driving cars);
2. Copyright protection technologies, which protect Warner Bros. products from being pirated and illegally copied in distribution channels;
3. Standards-setting bodies, which are multi-industry groups of companies that develop the specifications governing certain technologies, such as the Blu-ray Disc Association;
4. Licensing out Warner's patent portfolio, including through patent pool licensing organizations; and
5. Application Development and Maintenance (i.e., contracting for the development and maintenance of computer applications that Warner and its vendors need to manage Warner's businesses).

With so many areas of focus, there's no typical day to Jay's job. He and his direct reports manage a lot of international travel, especially related to patent licensing and standard-setting bodies. Jay has traveled to Japan more than 50 times for Warner Bros., and has made numerous trips to places such as China, Vietnam, Thailand, Taiwan, Korea, Paris, London, Rome, Lisbon, Munich, Prague and Budapest.

Career Advice

You always hear, "Go out and try lots of different things", but it's very true. Be passionate about whatever you do and follow your heart. Jay was very involved in pro bono work at Sheppard Mullin, which he greatly enjoyed, and found the firm to be very supportive. He was even named the Legal Aid Foundation of Los Angeles' Pro Bono Associate of the Year during his time at Sheppard Mullin.

Obtaining and Retaining Clients

The most important thing is to be responsive to client requests, even if it's just to say that you received the message and will get back as soon as possible. There's no excuse nowadays for not responding to a client for several days. Sometimes outside counsel who are locked in by previous in house counsel take relationships for granted, which is never a good idea.

Outside of Work

Jay and his husband are big downhill skiers, and love going to Aspen, Jackson Hole and Utah to ski. They enjoy concert music and are seeing Springsteen on Broadway in New York

soon. They have gone for many years to the New Orleans Jazz & Heritage Festival. They have season tickets to both the Los Angeles Opera and the Gloria Kaufman Dance Series at the Dorothy Chandler Pavilion, as well as a box at the Hollywood Bowl. What a wonderful life!

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We thank Jay for taking the time to share his insights with us about his post-Sheppard Mullin career and wish him continued success. We hope that you will also keep in touch with us – and with each other. We'd love to hear from you.



FREE CORPORATE COUNSEL MEMBERSHIP FOR IN HOUSE ALUMNI

The Association of Corporate Counsel, spanning more than 43,000 in-house counsel employed by over 10,000 organizations across 85 countries, has unveiled a new initiative that aligns law firm's support of in-house practitioners with their ongoing career development. Through ACC's Law Firm Alumni Program, lawyers who are in an in-house role can receive a complimentary six-month ACC membership.

Participation in this program will give members the opportunity to connect with fellow in-house counsel, access ACC educational programs, and attend local CLE accredited programs. ACC will also provide additional concierge services to transitioning lawyers as they navigate through their new in-house roles. Click [here](#) to read more information about ACC membership benefits and about ACC's alumni program.

Because of Sheppard Mullin's long-standing relationship with ACC and our desire to invest in your future success, membership will be provided at no cost to alumni who are now in-house. To activate your six-month complimentary ACC membership, go to www.acc.com/firmgift.

ALUMNI MOVES

Below are a few recent in-house, governmental and judicial moves. Let us know if you've changed jobs so we can feature your move in a future edition.

- **TyAnthony Davis** became Founder and Head of School of Vox Collegiate, after working as a corporate associate in the Century City office from 2014 to 2016. He received his J.D. from Harvard Law School in 2014. An [article](#) about his new venture appeared in the *LA School Report*.
- **Andre de la Cruz** was [appointed](#) as a Judge for the Orange County Superior Court by California Gov. Brown. He was an intellectual property associate in the Orange County office from 2013 to 2016, and received his J.D. from Loyola Law School of Los Angeles in 2006.
- **Ed Lozowicki**, former SF/SV litigation partner, was appointed as Co-Chair of the ABA's Arbitration Committee. He now works as an arbitrator for the American Arbitration Association. He received his J.D. from the University of Santa Clara in 1969.
- **Kevin McAleenan** is the Commissioner of U.S. Customs and Border Protection in Washington, D.C. He was an associate in LA office from 1998 to 2000, and received his J.D. from the University of Chicago School of Law in 1998. An [article](#) about him recently appeared in *AllGov*.
- **Marlene Nicolas** is Employment Counsel with Mattel in El Segundo, leading their labor and employment law functions. She was a Los Angeles employment partner from 2015-2017, joining the firm in 2006. Marlene received her J.D. from Southwestern University School of Law in 2006.
- **Lee-Ann Smith-Freeman, Ph.D.**, is Intellectual Property Counsel at Twist BioScience in San Francisco. She was an IP associate in our Palo Alto office from 2016 to 2017, and received her J.D. from the University of Santa Clara Law in 2012.

A reminder that we regularly post in-house job opportunities from clients and friends of the firm on the Sheppard Mullin alumni site under "Career Opportunities." We welcome in-house job postings from your company; please send to alumni@sheppardmullin.com.



AHEAD OF THE CURVE

As the world changes due to disruptive technologies, so does the law. This column features new trends and practices that may intersect with your job responsibilities. As innovation is a major focus at Sheppard Mullin, our lawyers are able to stay on top of these trends through an internal education program we call "Ahead of the Curve."

Social Media Influencers Beware

Kim Kardashian watch out! In response to a petition from a coalition of consumer groups last year complaining about the need for disclosures by social media influencers, the FTC announced in April 2017 that it had issued more than 90 letters reminding influencers and brands that "if there is a 'material connection' between an endorser and the marketer of a product – in other words, a connection that might affect the weight or credibility that consumers give the endorsement – that connection should be clearly and conspicuously disclosed, unless the connection is already clear from the context of the communication containing the endorsement."

The FTC explained that material connections could "consist of a business or family relationship, monetary payment, or the provision of free products from the endorser." A copy of the form of the letter, which explains that clear and conspicuous disclosures are required can be found [here](#). The FTC noted in its press release that "particular disclosures that are not sufficiently clear, pointing out that "many consumers will not understand a disclosure like '#sp,' 'Thanks [brand],' or '#partner'" to mean that a post is sponsored. The FTC letters included copies of the Endorsement Guides ([here](#)) and the publication "FTC's Endorsement Guides: What People are Asking".

On September 7, 2017, Trevor "TmarTn" Martin and Thomas "Syndicate" Cassell, two online gaming social media influencers settled Federal Trade Commission charges that they deceptively endorsed the online gambling service CSGO Lotto, while failing to disclose they jointly owned the company, and had allegedly paid other well-known influencers thousands of dollars to promote the site on YouTube, Twitch, Twitter, and Facebook, without requiring them to disclose such payments in their posts. The Commission order settling the charges required Martin and Cassell to clearly and conspicuously disclose any material connections with an endorser or between an endorser and any promoted product or service.

FTC Acting Chairman Maureen Ohlhausen stated at the time: "This action, the FTC's first against individual influencers, should send a message that such connections must be clearly disclosed so consumers can make informed purchasing decisions." The FTC also announced at the time that staff had both sent warning letters to 21 social media influencers that had been contacted in April 2017 regarding their Instagram posts, and updated staff guidance for social media influencers and endorsers.

So what's the bottom line? The watchword is transparency. An advertisement or promotional message shouldn't suggest or imply to consumers that it's anything other than an ad. The FTC Guides apply to *any* advertising message that consumers are likely to "believe reflects the opinions, beliefs, findings or experience of a party other than the sponsoring advertiser." Social media influencers must disclose any material relationship between the brand and him/herself.

The FTC requires that the disclosure be clear and conspicuous. Using the following on an Instagram or Twitter post is likely sufficient: "#contest, #sweepstakes, #advertisement, or #ad. Alternatively, the hashtag "#sweeps" is likely not sufficiently transparent to meet the FTC disclosure requirement for sweepstakes.

If you need assistance working through this maze of regulations, Sheppard Mullin's Fashion, Apparel & Beauty Team with more than 60 lawyers and led by NY partner Ted Max, can help.

IN MEMORIAM

Donald T. Hibner, Jr.

April 5, 1934 -

February 11, 2018



It is with great sadness that we report that Don Hibner, long-time Los Angeles partner who joined the firm in 1962, passed away in early February. Don was a nationally-known practitioner in antitrust litigation for more than 40 years, often consulted by other antitrust lawyers because of his legal and economic expertise.

In the mid-1980s, Don was instrumental as the lead antitrust lawyer in the *Northrop v. McDonnell Douglas* case, successfully representing Northrop all the way to the Supreme Court in its epic antitrust claim against MDC arising out of their efforts to sell the F-18 fighter aircraft to the U.S. Air Force and foreign governments.

In 2002, Don became Of Counsel at the firm and was selected as "Antitrust Lawyer of the Year" by the California State Bar's Antitrust Section. Continuing to come into the office almost every day until late last year, Don testified as an expert witness in antitrust malpractice cases, and consulted on vertical restraint distribution strategies.

Don arrived in California from Boone, Iowa, when he was three months old. He described himself as "almost a native Californian." Don was a graduate of Palo Alto High School, Stanford University and Stanford Law School.

Don married his wife Scarlett Chambers (Stanford '61) in 1962. Together Don and Scarlett engaged in support of national level horse sports. In 1974, Don was elected to the Board of Directors of the Valley Water Company, the largest purveyor to properties in La Canada Flintridge, and served as its President from 2003 to 2017.

We will always remember Don for his soaring intellect, graceful demeanor, and love for the law and for Sheppard Mullin.

HELPING CLIENTS SUCCEED

Sheppard Mullin lawyers work on a broad range of litigation and transactions to help our clients succeed. Here are a few examples of our work during the last quarter.



Belgacom International Carrier Services – We represented BICS, a global provider of international wholesale connectivity and interoperability services based in Belgium in connection with its acquisition of TeleSign Holdings, Inc., a leading communications platform as a service (CPaaS) company, for \$230 million plus performance-based earn-out consideration. The M&A team was led by partners Michael Umansky (Del Mar) and Luca Salvi (Washington DC), with assistance from various practice groups and offices across the firm.



BioXcel Therapeutics – BioXcel Therapeutics, a Connecticut-based company using artificial intelligence to develop drugs that fight cancer and neurological disorders, filed an initial public offering in early February estimated to raise \$69 million with Barclays, UBS and BMO as managing underwriters. BioXcel plans to use IPO proceeds to develop its top two clinical programs, including BXCL501, which would treat agitation from neurological and psychiatric disorders, along with BXCL701, which would treat rare forms of prostate cancer and pancreatic cancer. The company touts a “re-innovation” approach that uses big data and machine-learning algorithms to identify new methods of use and new formulations of previously known drugs. The deal was led by Jeff Fessler (NY).



GEICO – An Orange County jury returned a unanimous defense verdict after a ten day trial in favor of our client GEICO in a lawsuit alleging insurance bad faith and financial elder abuse. The plaintiff sought \$5 million in punitive damages and \$550,000 in compensatory damages, but after deliberating less than one hour, returned a unanimous verdict in favor of our client. GEICO contended there were good faith questions about the true cause of some of plaintiff’s claimed injuries and about the reasonable value of his claimed medical care, and that GEICO acted reasonably in submitting the dispute to arbitration. Partner John Brooks (San Diego) led the successful defense of this matter.



ORIX – California Proton Therapy Center LLC announced the official re-launch of California Protons, a cancer treatment center in San Diego. As San Diego’s only cancer-targeting proton treatment center, California Protons leveraged an infusion of capital and new leadership to relaunch following Chapter 11 bankruptcy. We represented ORIX, the agent for the investor group (former lenders to the Proton Center), as healthcare counsel. The deal was led by Century City partners Eric Klein and Ken Yood.



Samsung Electronics – Samsung is a member of RPX, one of a new breed of company designed to frustrate patent trolls by aggregating and leveraging the buying power of its member companies to purchase patent licenses at wholesale prices. Patent troll Cascades Computer Innovations sued Samsung, RPX, and certain other RPX members, alleging that this arrangement constituted an unlawful boycott under the antitrust laws. Samsung held firm and didn’t settle, and we obtained a complete dismissal on the pleadings, later affirmed by a unanimous panel of the Ninth Circuit Court of Appeals. Partners Mike Scarborough (SF) and Dylan Ballard (SF) led the defense.



San Francisco Giants – We successfully persuaded the California Court of Appeal to reverse a trial court’s denial of a motion to compel arbitration, and compelled arbitration of statutory labor code claims of a proposed class of San Francisco Giants employees, based on Section 301 (LMRA) preemption. Plaintiff, a unionized security guard who worked at AT&T Park for the past 10 years, brought a wage-and-hour class action seeking to recover waiting time penalties for final wages, claiming a novel theory that he was “discharged” after every homestand, event, and/or baseball season. We successfully argued that whether a discharge had taken place required interpretation of the parties’ collective bargaining agreement. The matter is now up before the California Supreme Court for limited review on the issue of LMRA preemption. Partners Nancy Pritikin (Palo Alto) and Babak Yousefzadeh (SF) led the successful defense of this matter.



Starbucks – We obtained summary judgment in favor of Starbucks in a putative class action alleging that Starbucks misleads consumers about the volume of its lattes and mochas. This was the firm’s third win in a series of class actions brought against Starbucks relating to the fill of its beverages. Partners Rob Guite (SF) and Sascha Henry (LA) led the defense of this matter.

NEWLY ELEVATED PARTNERS

We are pleased to [announce](#) that 16 of our attorneys were elevated to partner, effective March 1st. They reflect true diversity, from office to practice to gender to race. Congratulations to all!

SheppardMullin ELECTS SIXTEEN ATTORNEYS TO PARTNERSHIP



Travis Anderson - DM
Labor & Employment



Townsend Bourne - DC
Gov Con



Michael Chilleen - OC
Business Trial



John Edson - SD
Business Trial



Harris Gao - SH
Intellectual Property



Aaron George - DC
Business Trial



Katarzyna Leveck - CH
Real Estate



Robert Mussig - LA
Labor & Employment



Justine Phillips - SD
Labor & Employment



Tamar Rosenberg - NY
Tax



Michael Roth - CH
Real Estate



Ericka Schulz - DM
Intellectual Property



Robert Wernli - DM
Corporate



Cheng Xu - SH
Corporate



Lai Yip - SF
Intellectual Property

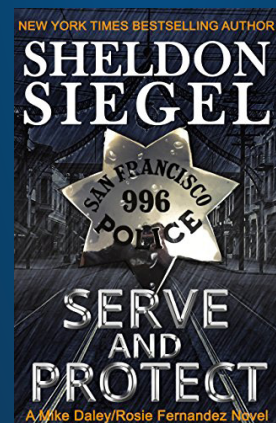


Michael Zhang - SH
Corporate

TENTH LEGAL THRILLER OUT BY SHEPPARD MULLIN AUTHOR

San Francisco special counsel Sheldon Siegel's 10th legal thriller, entitled "Serve and Protect", was recently released. Sheldon is the *New York Times* best-selling author of the critically acclaimed legal thriller series featuring San Francisco criminal defense attorneys Mike Daley and Rosie Fernandez, two of the most beloved characters in contemporary crime fiction. His books have been translated into a dozen languages and sold millions of copies worldwide.

Like all of Sheldon's best sellers in this series, the book is set in San Francisco where he practices corporate law. In *Serve and Protect*, "It starts with a routine traffic stop. Moments later, a young man is killed by a rookie cop. Self-defense or murder? As San Francisco descends into riots and chaos, it's up to Mike Daley and Rosie Fernandez to prove that the cop is innocent." To read more or order, click [here](#) on Amazon.



SF BAY AREA ALUMNI RECEPTION — SAVE THE DATE

Join your former Sheppard Mullin colleagues and San Francisco Bay Area alumni for an Attorney Alumni Reunion on Tuesday, May 22, 2018 from 6:00-8:00 pm. The reception will be held in our beautifully remodeled space in our San Francisco office overlooking the bay. We look forward to catching up and renewing friendships.

Attorney alumni from the San Francisco and Silicon Valley offices are welcome, as are alumni from any office who are currently living in the Bay Area. Be on the lookout for an invitation in the next few weeks! If you have any questions, please contact Summer Connery at sconnery@sheppardmullin.com.



FOLLOW US ON SOCIAL MEDIA (@SHEPPARDMULLIN)

We encourage you to follow us on social media to hear the latest developments, from daily blog posts to upcoming events to community and pro bono news.



LinkedIn: <https://www.linkedin.com/company/sheppard-mullin-richter-&-hampton-llp>



Twitter: <https://twitter.com/SheppardMullin>



Facebook: <https://www.facebook.com/SheppardMullin>

UPCOMING EVENTS

Below are a few upcoming events we are hosting that are open to in-house counsel or HR professionals. To RSVP or for more information about all events including for external organizations, go to our [Events](http://www.sheppardmullin.com/newsroom-events.html) web page at www.sheppardmullin.com/newsroom-events.html.

Spring 2018 "Breakfast with Your Labor Lawyer" Series

These seminars will cover many new developments in California labor and employment laws, including wage and hour, harassment and discrimination, new legislation, immigration, and practice tips. All programs offer CLE and run 7:30-10 a.m. PT.

- Tuesday, April 17:
Sheppard Mullin office, San Francisco
- Wednesday, April 18:
Westin South Coast Plaza, Costa Mesa
- Thursday, April 19:
Sheppard Mullin office, Palo Alto
- Thursday, April 26:
The LINE Hotel, Los Angeles

NY Women Lawyers Group Panel & Reception: Confessions from Women Who Lead

Thursday, April 12, 2018

5:30 – 8:30 p.m. ET

New York

San Diego & Del Mar Women Lawyers Group Spring Fashion Event

Sunday, April 22, 2018

9:00 – 11:00 a.m. PT

San Diego

Orange County Women Lawyers Group Reception – Summer Sips

Thursday, May 31, 2018

5:00 – 8:00 p.m. PT

Costa Mesa

FIRM REPRESENTS KIDNAPPING VICTIM ELIZABETH SMART IN BOOK DEAL

We represented Elizabeth A. Smart in connection with her second book, *Where There's Hope*, based on her own journey of coping and emerging stronger from being kidnapped and held in captivity in Salt Lake City as a teenager. *Where There's Hope*, a follow up to her #1 New York Times bestseller, *My Story*, is a powerful and inspiring book about what it takes to overcome trauma, find the strength to move on, and reclaim one's life. Kelly Crabb (LA) introduced her to her publisher, St. Martin's Press, and negotiated her publishing deals.



CONTACT US

For more information about our alumni program, to notify us of a job change, subscribe to a blog, or register for events, contact Alumni Program Manager Michelle O'Driscoll. We look forward to hearing from you and staying in touch.



Michelle O'Driscoll
Alumni Program Manager
modriscoll@sheppardmullin.com

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