



Mark D. Petersen

Of Counsel

mpetersen@fbm.com

San Francisco: 415.954.4406

Mark Petersen has a broad-based litigation and mediation practice emphasizing energy and construction issues, consumer fraud claims, entertainment law, and general business litigation.

Mark brings substantial trial experience to his work. He has successfully represented both plaintiffs and defendants in employment matters (including a professional football team) ranging from non-competition and unfair trade practices to sexual harassment. He has represented a large biotech company related to nucleic acid testing of blood, and has defended officers and directors of biotech, financial and software companies in securities and shareholder lawsuits. He has also worked on many cases in the entertainment industry. Among others, he settled a case for a record producer suing a major recording personality for unpaid royalties, and he defended a well-known recording artist in a lawsuit that received national media attention.

Mark has worked extensively on energy issues and construction matters, representing engineers and other design professionals, construction managers, private owners and contractors in numerous complex matters. He recently completed the successful defense of an international nuclear equipment designer/manufacturer for claims regarding steam generator defects at a nuclear power plant. The damages alleged were \$7.6 billion, and his client was cleared of any liability. He has also represented an international contractor related to the construction of a \$100 million computer chip manufacturing facility, and was able to resolve the case through mediation before any litigation had begun. Currently he represents an international design firm in some of the many lawsuits that have been filed concerning San Francisco's luxury Millennium Tower, which has been sinking and tilting since its construction.

His work as a neutral has focused on construction and engineering issues. Mark serves as a mediator for the Bar Association of San Francisco's (BASF) Early Settlement Program, the Contra Costa County EASE Program, the Northern District of California's Panel of Mediators, the American Arbitration Association's Panel of Mediators (and its panel of Commercial Arbitrators), and as a Judge Pro Tem in San Francisco for mediation of cases going to trial. In the past ten years, he has settled nearly 500 cases as a mediator. Among others, he has completed the American Arbitration Association's Mediator and Arbitrator Trainings, the American Bar Association Advanced Mediation Training, and the U.S. District Court (N.D. Cal.) Advanced Mediation Training Program. He serves as chair of BASF's Mediation Committee, and has served on the California State Bar's Standing Committee on ADR.

Mark has served as vice-chair of the firm, chair of the Litigation Department, and as a member of the Management Team. He was instrumental in the formation of the Professional Development Committee, and he is currently chair of the Partnership Admissions Committee.

Distinctions

- Lawyer of the Year Award (San Francisco) - Litigation-Construction, *Best Lawyers in America* (2021-2023)
- *Best Lawyers in America*, Arbitration (2019-2021); Litigation - Construction, Mediation (2021-2024)
- Martindale-Hubbell AV and ALM "Top Rated Litigator" (2020)
- Northern California *Super Lawyers* in Business Litigation since (2008-2023)
- Recommended for Construction in *Legal 500 USA* (2016, 2019-2023)

Services

- Business Litigation
- Construction
- Energy + Infrastructure
- Intellectual Property Litigation
- Patent Litigation
- Engineering, Procurement, and Construction
- Real Estate Litigation and Dispute Resolution

Education

- University of California College of the Law, San Francisco (formerly UC Hastings) (J.D., 1983)
 - *cum laude*; Editor-in-Chief, *Hastings International and Comparative Law Review* (1982-1983)
- U.S. Naval Academy (B.S., 1974)

Bar Admissions

- California

- Bar Association of San Francisco's Award of Merit, 2014
- After receiving his BS at the US Naval Academy, Mr. Petersen served as a nuclear propulsion engineer on submarines with the U.S. Navy until 1980.

Memberships and Affiliations

- President, Board of Directors, Meals on Wheels San Francisco (2019-2020)
- Board of Directors, Meals on Wheels San Francisco (2015-present)
- Board of Directors, University of California Hastings College of the Law Foundation Board of Trustees (2017-present)
- Member, State Bar of California, Alternative Dispute Resolution Committee
- Chair, Bar Association of San Francisco, Mediation Committee
- Member, Association for Conflict Resolution
- Member, The Mediation Society of Northern California

Experience

Hanson v. Cable (1st Dist. Court of Appeal 2015)

Represented an NFL football team before the trial court, Court of Appeal, and California Supreme Court in a high-profile employment dispute turning on the enforceability of a coach's arbitration agreement. We confirmed the underlying arbitration award, prevailed on appeal, and successfully opposed Supreme Court review.

San Francisco Millennium Tower Litigation

Represented international design firm Pelli Clarke Pelli Architects, Inc., designer of the San Francisco Transit Terminal, in numerous lawsuits related to the adjacent 400-unit Millennium Tower. The 58-story luxury condominium complex has been sinking and tilting since its construction. A tentative settlement was reached among the fifty-plus parties in August 2019 after almost four years of litigation.

San Onofre Nuclear Generating Station

Defended Mitsubishi Heavy Industries in a high-profile international arbitration against claims of \$7.6 billion brought by Southern California Edison and its partners, arising out of the closure of the San Onofre Nuclear Generating Station.

Miotox v. Allergan

We represent the inventor and patent holder for using Botox (botulinum toxin) to treat migraine headaches, in a suit concerning the scope of royalties for follow-on (improvement) patents.

SK Foods LP

Representing the company owners, parent companies, affiliates and family trusts in defending over 14 separate proceedings brought by the bankruptcy trustee on a variety of theories.

Anthem Ventures v. Chiron

Defended Chiron against claims for \$100 million regarding investments in a start-up company producing an inhalable antibiotic that would compete directly with Chiron's product. We won the case on an Anti-SLAPP motion.

Chiron v. SourceCF

Served as local counsel and then lead trial counsel representing the Chiron Corporation (now Novartis) in a patent trial in the Northern District of California involving a Chiron drug-device combination patent. A permanent injunction was entered against the defendants.

Gen-Probe v. Chiron

Obtained a favorable settlement for Chiron (now Novartis) in this case asserting cross-claims about the rights of the parties under their collaboration agreement regarding the nucleic acid testing of blood.

Highland Hospital - County of Alameda

Represented the County of Alameda in connection with the development of a high rise acute care facility on its urban hospital campus in Oakland. Farella substituted into pending litigation for the County's prior counsel and resolved claims for tens of millions of dollars among the County, the general contractor and subcontractors.

Obayashi Corporation

Represented Obayashi, a large international contracting firm, in connection with a \$30 million dispute relating to the construction of a chip-making demonstration facility.

Publications

January 1, 2016

ADR: Mediation and Arbitration in California Business Litigation

8/1/2012

Breaking Impasse in Mediation: Tools to Restart - or End - the Process