



## Michael Fluhr

### Of Counsel

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Michael Fluhr counsels and defends companies in a wide variety of complex, commercial disputes.

Michael focuses his practice on the financial sector, including the blockchain and digital asset space, where he advises and defends exchanges, issuers, and related companies. Sought-after for his deep understanding of the space and technology, Michael has been quoted in media and regularly publishes and speaks about issues germane to blockchain and digital assets.

Michael also has ample experience in products liability litigation, defending large manufacturers and distributors in hundreds of cases throughout the United States and abroad.

## EXPERIENCE

### Blockchain and Digital Assets

- Defended cryptocurrency exchange against multiple lawsuits from customer alleging failure to support forked currencies, obtaining summary judgment
- Defended cryptocurrency exchange against numerous consumer disputes, lawsuits, and arbitrations
- Defended cryptocurrency exchange against prelitigation allegations of trademark infringement in the distributed domain name space
- Counseled foreign cryptocurrency issuer on compliance with US securities laws

### Other Commercial Litigation and Dispute Resolution

- Defended large music festival promoter in lawsuit arising from cancellation of festival
- Counseled medical technology company in prelitigation dispute with former director over trade secret theft and
- Defended fitness SAAS company against prelitigation claims of Telephone Consumer Protection Act violations
- Defended credit reporting agency in over a dozen cases filed under the Fair Credit Reporting Act, obtaining multiple dismissals

## RELATED SERVICES

- Litigation, Arbitration and Investigations
- Banking and Finance Litigation
- Corporate and Securities Litigation
- Product Liability, Mass Torts and Product Stewardship

## RELATED SECTORS

- Consumer Goods, Food and Retail
- Financial Services
- Technology

- Represented foreign bank in litigation seeking to draw down on US\$103 million line of credit, defeating motion by counterparty bank to enjoin draw down
- Represented investment bank in litigation over enforceability of interest rate swap

### **Products Liability Litigation and Counseling**

- Lead internal investigation of alleged environmental contamination in coworking spaces
- Served as national coordinating counsel for international automaker, supervising the defense of hundreds of lawsuits across the U.S. and abroad, and obtaining myriad dismissals on the merits and without payment
- Lead team of multiple law firms in defense of bus manufacturer and distributor in over sixty related lawsuits across multiple jurisdictions arising from a severe accident, obtaining dismissal with prejudice without payment
- Defended auto manufacturer in class action alleging defects in wheels, obtaining denial of class certification
- Obtained dismissal at trial, affirmed on appeal, for auto manufacturer and distributor against lawsuit by estate of deceased individual involved in a bus accident
- Defended airplane manufacturer in lawsuit alleging fuel line defects leading to crash

## **CREDENTIALS**

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### **Admissions**

- California
- New York

### **Clerk Experience**

- Clerkship for the Honorable Warren Matthews, Alaska Supreme Court, 2006-2007
- Clerkship for the Honorable William Martini, United States District Court for the District of New Jersey, 2007-2008

### **Recognitions**

- Cryptocurrency/Blockchain/Fintech Trailblazer 2018, *National Law Journal*

### **Education**

- J.D., Harvard Law School 2006
- B.S., Physics, Pennsylvania State University 2003

### **Courts**

- United States Court of Appeals for the Ninth Circuit
- United States Court of Appeals for the Second Circuit
- United States Court of Appeals for the Third Circuit
- United States District Court for the Eastern District of New York
- United States District Court for the Northern District of California
- United States District Court for the Northern District of New York
- United States District Court for the Southern District of New York
- United States District Court for the Western District of New York

## **INSIGHTS**

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## Publications

### Court upholds New York AG's Martin Act authority to investigate virtual currency fraud

14 July 2020

State Attorney General Watch blog

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### Court confirms Telegram injunction covers non-US purchasers

2 April 2020

The court's opinion provides additional color on highly disputed issues concerning application of securities law to cryptocurrency.

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### Court grants SEC's motion for preliminary injunction against Telegram's sales of Gram cryptocurrency; Telegram appeals

30 March 2020

The decision is likely to significantly impact digital asset sales in the US.

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- "Blockchain regulation: Speedbumps, roadblocks and superhighways," *Cointelegraph*, September 3, 2020
- "NY Attorney General Files Fraud Claims Against Bitfinex and Tether," *National Law Review*, May 7, 2019
- "New York Federal Court Denies Motion to Dismiss Securities Class Action Against Digital Token Issuer," *National Law Review*, April 9, 2019
- "SEC Issues Long-Awaited Cryptocurrency Guidance," *Lexology*, April 5, 2019
- "Preliminary Injunction in Blockvest Provides New Fodder for SEC Regulation of Digital Assets and Raises Scrutiny of Marketing Materials," *National Law Review*, February 20, 2019
- "Security Token Offerings: Old Wine in a New Bottle?," *National Law Review*, February 18, 2019
- "In re Tomahawk and the Securities Law Implications for Airdropped Tokens," September 7, 2018
- "Foreign Cryptocurrency Issuers Must Beware of U.S. Securities Advertising Restrictions," *Oracle Times Cryptocurrency News*, May 7, 2018
- "SEC and CFTC Offer Views on Regulation of Virtual Currency," *IP Tech Blog*, February 27, 2018

## Events

- Moderator, Panel Discussion "The State of Blockchain Law 2020", Northern California Harvard Law School Alumni Association, March 5, 2020
- Speaker, "Blockchain 101: An Introduction to Blockchain Technology, Industry, and Regulation for Attorneys", California Lawyers Association, July 18, 2019
- Speaker, "Blockchain 101", 3DHEALS Global Healthcare Conference, April 21, 2018
- Moderator, Panel Discussion "Emerging International Issues in Regulation of Blockchain and Cryptocurrencies", DRI Annual Meeting, October 17-21, 2018
- Panelist, Panel Discussion "Fundus Fire", AI Global Tech Summit, May 11, 2018
- Panelist, "ICO? Where to Go?", German-American Chamber of Commerce sponsored event, September 7, 2018
- Presenter, "Everything Is the Same/Nothing Has Changed," NorCal eDiscovery Retreat, July 18, 2016
- Presenter, "A Closer Look at Social Media eDiscovery and Governance," Actiance Webinar, May 19, 2015

- Presenter, "Establishing InHouse eDiscovery Playbooks, Procedures, Tool Selection, and Implementation," NorCal eDiscovery & Information Governance Retreat, April 26-27, 2015
- Panelist, "The Three Rs of Enterprise Discovery Management," Legal Tech New York, February 2014
- Panelist, "The Why of eDiscovery Understanding the Frameworks: eDiscovery Goals," Laguna Beach eDiscovery Retreat, July 2013
- Panelist, "An Analytical Primer: Assessing the Pros & Cons of Established & Emerging Review & Analysis Paradigms," Carmel Valley eDiscovery Retreat, July 2013
- Panelist, "Laying the Foundations for eDiscovery Competence," Carmel Valley eDiscovery Retreat, May 2013
- Panelist, "The Unforeseen: eDiscovery Project Management," Legal Tech New York, January 2013

## NEWS

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### **DLA Piper achieves appellate victory for cryptocurrency exchange Coinbase in lawsuit over Bitcoin Gold**

13 August 2020

DLA Piper won a significant appellate victory on behalf of global cryptocurrency exchange Coinbase, defeating a lawsuit alleging that the exchange violated various obligations to users when it refused to support or provide access to the forked cryptocurrency Bitcoin Gold.

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### **Matthew Miller, Robert Nolan and Michael Fluhr join DLA Piper's Litigation practice in Northern California**

10 February 2020

DLA Piper announced today that Matthew Miller and Robert Nolan have joined the firm's Litigation practice as partners in Northern California, based in the San Francisco office, and Michael Fluhr has joined as of counsel, also based in San Francisco.

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## MEDIA MENTIONS

- "Should you still care about cryptocurrencies?", *ITPro.*, March 6, 2019
- Marc J. Lane, Representing Corporate Officers and Directors and LLC Managers (Third) § 11.01[B] n. 168.46