



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, NFT platforms and creators, 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, including securities analysis, intellectual property rights, and regulation of the NFT space.

Blockchain and Digital Assets

- Advising large social media company on partnership with NFT platform to launch NFT collectibles
- Advised NFT platform on partnership with professional car racing organization to launch NFT collectibles
- Counseled ownership group for several professional sports clubs (including NHL and NBA teams) on creation of a platform to mint and trade NFT collectibles
- Counseled private equity firm on various issues relating to NFT collectible platform to assess potential acquisition of sports collectibles company
- Defeated motion for preliminary injunction and temporary restraining order that could have enjoined client's imminent sale of tens of millions of dollars' worth of new cryptocurrency and release of new blockchain
- Defended large, international cryptocurrency exchange against multiple lawsuits from customer alleging failure to support forked currencies, obtaining summary judgment and affirmance in published appellate decision
- Defended large cryptocurrency exchange against numerous consumer disputes, lawsuits, and arbitrations
- Defended large, international cryptocurrency exchange in several commercial disputes
- Defended cryptocurrency exchange against prelitigation allegations of trademark infringement in the distributed domain name space

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

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

- Defended SAFT issuer in securities fraud lawsuit
- Counseled foreign cryptocurrency issuer on compliance with US securities laws
- Counseled foreign cryptocurrency exchange on setting up unclaimed property law compliance program

Other Commercial Litigation and Dispute Resolution

- Defending AI company going public via SPAC against claims it breached contract to issue convertible note
- Defended venture capital firm focused on gaming against claims it tortiously interfered with SAFE investment in gaming company
- Defending private fund investing in manufactured housing communities against claims of securities fraud
- Represented medical device distributor in lawsuit and companion arbitration against manufacturers alleging product defects
- Defended professional race truck team against lawsuit by race promoter alleging violations of race contracts
- 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 in class action alleging violation of the Telephone Consumer Protection Act
- Defended credit reporting agency in over a dozen cases filed under the Fair Credit Reporting Act, obtaining multiple dismissals
- 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

- Led 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
- Led 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

Michael also has experience with direct defense of aging services facilities in lawsuits asserting professional liability, personal injury, negligence, elder abuse, wrongful death and other related claims.

CREDENTIALS

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

INSIGHTS

Publications

Court dismisses class action against cryptocurrency exchange: A review of the holding in *Holsworth v. BProtocol Foundation*

22 March 2021

The court issued a terse three-page opinion dismissing the case on multiple grounds.

Unauthorized financial transaction fraud: Mitigating liability risks

28 January 2021

Prudent financial institutions are seeking to protect themselves against liability for third-party fraud and accountholder carelessness.

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

14 July 2020

State Attorney General Watch blog

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.

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.

- "Blockchain regulation: Speedbumps, roadblocks and superhighways," *Cointelegraph*, September 3, 2020
- Court upholds New York AG's Martin Act authority to investigate virtual currency fraud, *State Attorney General Watch blog*, 14 July 2020
- Court confirms Telegram injunction covers non-US purchasers, 2 April 2020
- Court grants SEC's motion for preliminary injunction against Telegram's sales of Gram cryptocurrency; Telegram appeals, 30 March 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

Previous

Everything you wanted to know about NFTs

15 September 2021 | 10:00 PT
Webinar

Virtual currency in unclaimed property

19 February 2021 | 2:00 – 3:00 ET
Webinar

- 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 "Funders 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

DLA Piper represents TikTok in launch of its first ever NFT collection

1 October 2021

DLA Piper is pleased to announce its representation of TikTok in the launch of the video platform's first ever non-fungible token (NFT) collection.

DLA Piper advises AEye Inc from Series A through SPAC Closing with CF Finance Acquisition Corp. III

18 August 2021

DLA Piper represented AEye, Inc. from its Series A investment through the recent closing and public listing on the NASDAQ via a business combination with CF Finance Acquisition Corp. III.

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.

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.

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

PRO BONO

Michael sits on the Ninth Circuit pro bono attorney panel and is currently representing a prisoner in a pro bono appeal concerning allegation that the prison was deliberately indifferent to his medical needs.