

## **Petroleum and Energy Company Litigation Representative Matters**

### **Power Purchase Disputes**

- Represented major petroleum refiner in litigation over power purchase agreement between cogeneration plant and refinery, and related disputes with cogeneration partner—former affiliate of Southern California Edison. Refiner prevailed at arbitration.
- Represented clients in two major federal antitrust trials including action seeking to compel California to allow PG&E to recover its wholesale energy costs incurred during the 2000-2001 western energy crisis.

### **Environmental and Natural Resources**

- Represented major petroleum company in Proposition 65 case alleging theory of daily “continuous discharges” from underground storage tanks. Defense group defeated this theory on summary judgment which was affirmed on appeal.
- Represented refinery in soil and groundwater contamination lawsuit. Court approved good faith settlement in which client obtained access to a tax exempt Qualified Settlement Fund for use in remediation.
- Represented major petroleum company in Proposition 65 case in which plaintiff alleged major oil companies and industrial companies violated Proposition 65 by not adequately remediating landfill and posting Propositions 65 warnings. Demurrer was sustained by the Orange County Superior Court and case was affirmed by the California Court of Appeal for the 4<sup>th</sup>.
- Defended major oil company in cost recovery action filed by State of California against numerous parties for sending waste oil from 1950 to 1980 to a waste oil recycling facility in Sacramento.
- Represented petroleum company in lawsuit seeking recoupment of millions of dollars in replenishment assessment fees paid to a public agency for groundwater production.

### **Commercial Litigation**

- Represented manufacturer of unmanned submarines used for oil and gas exploration against German supplier of control cables (for electrical and optical signals). Issues involved alleged design defects and material science experts. Matter settled before trial.
- Represented major petroleum wholesaler in lawsuit to confirm the enforceability of restrictive use covenants (requiring the sale of branded fuel for an extended period of years and prohibiting residential use).
- Represented major petroleum company in lawsuit involving enforceability of deed restrictions recorded in connection with the sale of a retail fuel facility.

### **Franchise and Antitrust Litigation**

- Represented major petroleum refiner in lawsuits for damages against dealers for rebranding stations, and anti-trust counter-claims alleging price discrimination, locality discrimination, below cost sales, and alleged unreasonable pricing.
- Represented a major California petroleum wholesaler in a lawsuit in the United States District Court for the Southern District of California against a group of over 100 dealers who asserted that offers to purchase retail fuel facilities were not “bona fide” under the California Business & Professions Code. Obtained summary judgment on behalf of client that all non-price terms were bona fide. Decision recently was affirmed by the Ninth Circuit

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- Represented a major California petroleum distributor in over 15 arbitrations concerning “bona fide offers” to dealers under B&P Code Section 20999.25 (the so called “California PMPA”).
- Represented major petroleum company in five different federal District Court cases in which franchisee/dealers challenged the methodology used in offering dealers right of first refusal to purchase gas station properties sold under a sealed-bid process involving over 40 facilities. After extensive discovery, obtained summary judgments in favor of BP, which were affirmed by the Ninth Circuit.
- Representing petroleum distributor in lawsuit by dealer for alleged failure to provide ROFR.
- Represented numerous petroleum franchisors (including Chevron, Tesoro, BP, ARCO, United Pacific), on litigation involving termination and regulatory matters.