

SULLIVAN & CROMWELL LLP

Lawyers



Brendan P. Cullen

Partner

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Brendan Cullen is a partner in S&C's Litigation Group. Mr. Cullen has litigated a broad range of matters, including complex securities, commercial, intellectual property and antitrust litigation, frequently with a substantial technological element. He has advised and represented clients in arbitrations, in cases in state and federal trial courts and on appeals before state and federal appellate courts, including the U.S. Supreme Court. He also has conducted numerous confidential internal investigations, including investigations related to issues of corporate governance, securities matters and Foreign Corrupt Practices Act compliance, and involving numerous countries throughout Asia, Europe, the Middle East, and Latin America.

Mr. Cullen's corporate clients have included Australia and New Zealand Banking Group, BHP Billiton, Caterpillar, Dolby International AB, EchoStar, Facebook, Goldman Sachs, Intel, Madison Square Garden, Microsoft, Ovintiv, Philips Electronics, Rolls-Royce, Tenaris, UBS, Verifone, Vista Equity Partners and Wells Fargo. Over the last several years, he has been navigating his clients through legal issues arising from some of the most complex economic developments of the past generation, including the collapse of Enron, the California energy crisis and the financial crisis. Matters with a high technology focus in which Mr. Cullen has been involved include patent litigation on behalf of VeriFone and Dolby and a six-week jury trial in which Mr. Cullen's Sullivan & Cromwell team obtained a jury verdict for Philips in a case arising from allegations of faulty computer chips.

Mr. Cullen recently led the team at S&C that partnered with Stanford Law School to launch the [Foreign Corrupt Practices Act Clearinghouse](#), a public database that aggregates and curates source documents and provides analytic tools related to enforcement of the FCPA since its enactment.

Mr. Cullen provides litigation support to the Asia-Pacific region from our Palo Alto office.

Professional Activities and Community Involvement

- Member, Silicon Valley Campaign for Legal Services Board of Directors
- Member, Atherton Police Foundation Board of Directors
- Member, Stanford Law School Board of Visitors

PRACTICES & CAPABILITIES

Litigation

Antitrust

Supreme Court and Appellate

Arbitration

Criminal Defense & Investigations

FCPA & Anti-Corruption

Intellectual Property & Technology Litigation

Securities Litigation

Estates & Personal

Asia

EDUCATION

1995, Stanford Law School, J.D.

1991, University of Oregon, B.A.

BAR ADMISSIONS

California

CLERKSHIPS

The Honorable Clarence Thomas, United States Supreme Court, 1996-1997

The Honorable Laurence H. Silberman, United States Court of Appeals, District of Columbia Circuit, 1995-1996

- Member, Federal Bar Association

Recent Rankings and Recognitions

- *Chambers USA* - Recognized as a leader in Securities Litigation (2021)
- Named *The Am Law Litigation Daily* “Litigator of the Week” and a *Law360* “Legal Lion” in March 2017
- S&C featured in *The National Law Journal’s 2014 Appellate Hot List*
- *The Legal 500 United States* – Recommended Lawyer for Appellate (2011, 2014, 2017)
- *Northern California Super Lawyers* (2011-2020)

SELECTED REPRESENTATIONS

Securities

- Represents Wells Fargo in securities and derivative litigations pending in federal and state courts in California and Delaware arising from the sales-practices-related settlements announced by the OCC, CFPB, and LA City Attorney in September 2016.
- Represents BHP Billiton in multiple securities class actions in the Southern District of New York arising from the collapse of an iron mine dam in Brazil.
- Represented VeriFone, Inc. in separate consolidated securities class action litigations, federal shareholder derivative litigations, all in the U.S. District Court for the Northern District of California, and additional state court derivative litigations arising from (1) VeriFone’s late-2007 financial restatement, which preceded a precipitous single-day share-price drop and resultant decrease in market capitalization of almost \$2 billion, and (2) an announcement of disappointing quarterly results in 2013 that also resulted in a substantial single-day drop. S&C also represented VeriFone in an investigation of the 2007 financial restatement by the Securities and Exchange Commission, which resulted in a favorable settlement. In the 2007 case, S&C obtained dismissal with prejudice of the federal class action in October 2011. This followed the District Court’s August 2010 dismissal with prejudice of the federal shareholder derivative action, which was affirmed by the U.S. Court of Appeals for the Ninth Circuit. Plaintiff appealed the dismissal of the securities action to the Ninth Circuit and the parties settled the case shortly after the Ninth Circuit’s ruling. In the 2013 case, S&C also obtained dismissal of the federal class action and the federal derivative case in August 2014.
- Represents Goldman Sachs in shareholder litigation, governmental investigations and proceedings, including with respect to residential mortgage backed securities and collateralized debt obligations.
- Represented UBS in multiple Enron litigations: named *The Am*

Law Litigation Daily “Litigator of the Week” in March 2017 for obtaining the dismissal of securities actions against UBS seeking billions in damages arising out of the bankruptcy of Enron; obtained the dismissal of securities claims seeking \$18.5 billion in alleged damages for an investment in Enron credit-linked notes; and secured the dismissal of NASD arbitrations brought by UBS customers involving Enron securities.

Antitrust

- Represented Philips Electronics in multi-district antitrust litigation relating to the sale of thin film transistor liquid crystal display (TFT-LCD) panels.
- Represented EnCana Corporation and one of its subsidiaries in the resolution of multiple long-running actions involving alleged industry-wide manipulation of natural gas prices.
- Represented Madison Square Garden and the New York Knicks in consumer antitrust litigation related to DirecTV sports packages.
- Represented Rolls-Royce in antitrust litigation related to the plaintiff's failed endeavor to re-engine Boeing 727s with Rolls-Royce engines. S&C obtained summary judgment, which was affirmed by the Ninth Circuit

Government Investigations

- Represents a defendant in federal FIFA investigation.
- Represented Thomas Weisel in qui tam False Claims Act case brought by Floyd Landis on behalf of the United States arising from doping on the United States Postal Service Professional Cycling Team. S&C obtained dismissal of the complaint against Mr. Weisel in the District Court of the District of Columbia.
- Represented Tenaris S.A. in the successful resolution of a two-year SEC investigation of an alleged bribery scheme involving contracts to provide steel pipe to companies in Uzbekistan's state-owned oil and gas industry. In May 2011, Tenaris entered into a deferred prosecution agreement with the SEC – the first the agency has ever offered – and signed a two-year non-prosecution agreement with the DOJ.
- Has led numerous non-public investigations related to the Foreign Corrupt Practices Act and corporate governance and securities matters.

M&A-Related Matters

- Represented Caterpillar in litigation brought by Terex in New York State Supreme Court in connection with a post-closing dispute in a 2010 acquisition of Terex's mining equipment business.
- Represented Michael Rubin (CEO of GSI) in litigation related to eBay's acquisition of GSI
- Represented EchoStar in litigation related to its acquisition of Hughes Communications.
- Represented Softbank and other leading venture capital firms in a

dispute with Equifax involving alleged fraud in connection with an acquisition. S&C also represented Softbank and the other venture capitalists in connection with a related criminal investigation. The matter was settled favorably after argument in the Eleventh Circuit.

Complex Commercial Matters

- Represented a large foreign manufacturer in two lengthy confidential arbitrations, including two merits hearings, resolving both cases favorably prior to arbitrator decisions.
- Represented Philips Semiconductors in litigation relating to the sale of semiconductor chips that were allegedly defective because of the molding compound used in their manufacture. Mr. Cullen's team won a six-week jury trial as plaintiff in Santa Clara County.
- Represented Nippon Steel & Sumitomo Metal Corp. in class action litigation in the Northern District of California brought on behalf of putative class of World War II Korean "comfort women." S&C obtained dismissal of complaint.
- Represented Thomas Weisel in class action in the U.S. District Court for the Eastern District of California brought on behalf of putative class of purchasers of Lance Armstrong's books. S&C obtained dismissal of the complaint.

Intellectual Property

- Represented Dolby International AB in patent infringement litigation brought against Research In Motion regarding patents covering an advanced method of digital audio compression.
- Represented VeriFone in patent infringement litigation in multiple District Courts and before the International Trade Commission.
- Represented Philips Oral Healthcare in Lanham Act litigation against Salton, resulting in entry of injunctive relief prohibiting Salton from running misleading television commercials.
- Represented Rodime in patent infringement litigation in District Court litigation and on successful appeal to the Federal Circuit.