

## Lawyers



### Diane L. McGimsey

Partner

#### Los Angeles

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Diane McGimsey is a member of the Firm's Litigation Group. Before joining S&C, she served as a law clerk to Justice Clarence Thomas of the U.S. Supreme Court and to Chief Judge J. Harvie Wilkinson III of the U.S. Court of Appeals for the Fourth Circuit.

Ms. McGimsey has represented clients in a wide range of federal and state litigation matters at both the trial and appellate level, with a particular focus on shareholder litigation and the defense of private class action securities and antitrust litigation. Her practice also includes investigations by the Department of Justice and the Securities and Exchange Commission, as well as handling matters for clients as plaintiffs in significant commercial disputes.

#### Publications

- "Employers' Guide to Return-to-Work Considerations During the COVID-19 Outbreak," *Reuters Westlaw* (co-author) (April 2020)
- "Expert Q&A on Seeking or Opposing *Certiorari* in the US Supreme Court," *Practical Law Litigation* (co-author) (February/March 2018)
- "Expert Q&A on Best Practices for Amicus Briefing," *Practical Law Litigation* (author) (August/September 2016)

#### Rankings and Recognitions

- *AmLaw Litigation Daily* – Runner Up, "Litigator of the Week" (January 2022)
- *Benchmark Litigation* – Labor & Employment Star (2021, 2022)
- *Daily Journal* – Top Women Lawyers (2016, 2017, 2018)
- *Law360* – Rising Star in Banking (2015)
- *Los Angeles Business Journal* – recognized as one of the "Women Making a Difference" in Los Angeles (2014, 2015)

#### Community Service

- Member of Board, Western Justice Center
- Member of Board, Salvatori Center for the Study of Individual

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#### PRACTICES & CAPABILITIES

**Litigation**

**Antitrust**

**Financial Services  
Investigations & Litigation**

**Corporate Culture,  
Workplace Investigations &  
Whistleblower Litigation**

**Labor & Employment**

**Products Liability & Mass  
Torts**

**Supreme Court and  
Appellate**

**Environmental, Social and  
Governance (ESG)**

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#### EDUCATION

**2002, UC Berkeley School of  
Law, J.D.**

**1999, Claremont McKenna  
College, B.A.**

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#### BAR ADMISSIONS

**California**

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#### CLERKSHIPS

**The Honorable Clarence  
Thomas, United States  
Supreme Court, 2003-2004**

**The Honorable J. Harvie  
Wilkinson III, United States  
Court of Appeals, Fourth  
Circuit, 2002-2003**

## SELECTED REPRESENTATIONS

### Securities and Complex Commercial Litigation

- **Volkswagen AG**, in its landmark \$14.7 billion settlement that solves civil claims related to 475,000 2.0-liter diesel engine vehicles in the United States. The resolution was achieved with multiple government agencies, 44 U.S. states and private plaintiffs. Also advised Volkswagen on its 3-liter class action and regulatory settlements.
- Real estate investor **Richard D. Cohen** in obtaining a favorable ruling in a federal bench trial in the Southern District of New York over Mr. Cohen's personal liability for a loan obtained by entities he controlled to buy a San Francisco residential apartment complex known as Rincon Center.
- **BP p.l.c.** in securities class action litigation arising out of the August 2006 shutdown of the facilities in Prudhoe Bay, Alaska, including in a successful interlocutory appeal to the Ninth Circuit
- **JPMorgan Chase and its affiliates** in connection with litigation related to residential mortgage backed securities
- **TCL Chinese Theatres**, in litigation over permitted uses of the Dolby Theatre in Los Angeles, a live-performance auditorium used to host the Academy Awards
- **Standard Chartered Bank** in investor arbitrations and litigations relating to investments to feeder funds to Bernard L. Madoff Securities
- **RBC Capital Markets and other underwriters** in a class-action litigation relating to the U.S. Auto Parts Network, Inc. IPO
- **Thomas Weisel Partners** in FINRA disciplinary proceeding alleging fraud in connection with the sale of auction rate securities
- **The former CEO of International Rectifier** in class action and derivative litigation, SEC and criminal investigations relating to a restatement, and trade secret and wrongful termination litigation
- **UBS Securities** in class action and derivative litigation relating to the sale of Hollywood Entertainment to Movie Gallery
- **General Growth Properties** ("GGP") in an appeal of an adverse \$95 million judgment in an action by a rival mall developer on a claim of tortious interference (another firm represented GGP during the underlying trial)

### M&A-Related Litigation

- **CEO and Chairman of Activision-Blizzard** in litigation over a transaction involving the restructuring of Vivendi's ownership
- **Amylin** in expedited litigation in Delaware Chancery Court, and later in an appeal to the Delaware Supreme Court, relating to a proxy contest
- **Hilton Hotels** in litigation relating to its acquisition by Blackstone

- **Mitsubishi UFJ Financial Group** in litigation relating to its acquisition of UnionBanCal Corporation
- **Swift Transportation** in litigation relating to a going private transaction

#### **Antitrust Litigation**

- **BP West Coast Products** in a class action involving alleged manipulation of retail gas prices
- **Cablevision Systems Corporation** in a class action challenging the bundling of cable programming
- **EnCana Corporation** in multiple antitrust actions involving alleged manipulation of natural gas prices

#### **Governmental, Regulatory and Other Investigations**

- **FinTech company** in conducting an internal investigation and responding to high-profile allegations of a toxic environment due to sexual harassment and misconduct
- **Former CEO of Fortune 500 semiconductor company** in DOJ and SEC investigations relating to alleged accounting irregularities
- **Thomas Weisel Partners** in FINRA investigation and disciplinary proceedings relating to transactions involving auction rate securities