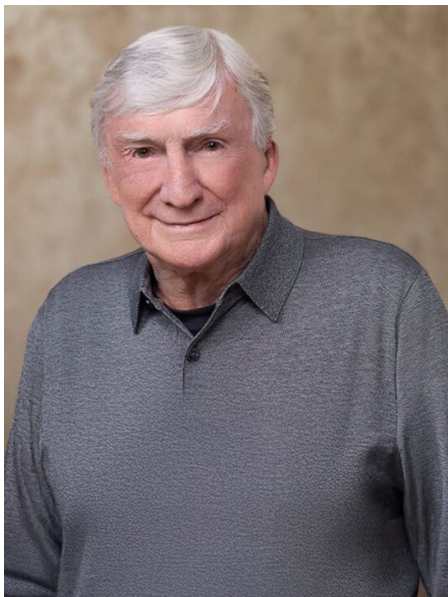




JOHN "JACK" MCLEAN

OF COUNSEL

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Jack McLean is Of Counsel at Bartko Pavia LLP and member of the Litigation Practice. He specializes in business litigation, antitrust matters, class actions, white-collar crime, government investigations, and international litigation. With over 50 years of experience in practicing antitrust law, Jack has tried three antitrust cases before juries while at Bartko, all resulting in favorable verdicts for the defense. These cases included a class action, a two-party litigation, and a criminal price-fixing case involving a U.S. executive.

In addition to his trial experience, Jack has extensive expertise in antitrust counseling and the development of compliance programs. His core principle is to help clients achieve their business objectives while identifying and managing antitrust risks.

Before attending law school, Jack served four years in the U.S. armed forces where he completed tours in Vietnam as an infantry advisor to the Vietnamese. During law school, Jack gained experience working for a labor law firm, a Wall Street firm, and as the Legal Counsel to the Governor of Wisconsin. Jack joined Pillsbury Madison & Sutro as an associate in June 1972, became a partner in 1980, and left the firm in 1999 to start his own private practice. After successfully defending his client against criminal price-fixing charges as co-counsel with Bartko, Jack joined Bartko as Of Counsel and laid the foundation for Bartko's growth of its antitrust practice.

Over the years, Jack has conducted numerous antitrust compliance programs in many industries, including high-tech, heavy construction equipment, ocean freight shipping lines, forest products from trees to various wood and paper products, food manufacturing, corporate farming,

consumer products, real estate MLSs, and insurance. These programs have included one or more activities: document and business plan reviews, management interviews, written analysis of risks and recommended solutions, in-house compliance program materials, and presentations (including movie scripts for training programs). As an offshoot of an antitrust compliance program for an international equipment manufacturer, Jack also conducted an investigation, prepared a report, and gave training on the dos and don'ts of the Foreign Corrupt Practices Act.

Recently, Jack conducted an antitrust litigation risk and compliance review and prepared a report for a company in the healthcare industry. He also prepared an evaluation and report for another company in the healthcare industry regarding potential litigation risks and prospects. Most recently, Jack has been part of the Bartko antitrust team advising a manufacturer of electric vehicles concerning antitrust issues on proposed conduct.

Jack also has experience in the classroom having served as the antitrust instructor at the University of California, Davis, School of Law for the school's Extension basic program for foreign lawyers, "Orientation in U.S.A. Law," and the masters MCL International Law Program (1995-2009).

Outside of work, Jack is a proud father and grandfather who strongly believes that having a sense of humor and maintaining a positive attitude are essential for happy and long-lasting life. His philosophy is simple: "The alternative to growing older is not very good, so I intend to grow older but not to grow up." For a contemporary perspective on this philosophy, Jack recommends Toby Keith's song "Don't Let the Old Man In," which is featured in Clint Eastwood's movie "The Mule." Keith wrote the song after playing golf with Eastwood, who, at 88, shared that it reflects his approach to staying active as he ages.

CREDENTIALS

EDUCATION

- University of Wisconsin, Madison, J.D. (Order of the Coif and Law Review)
- Dartmouth College, B.A. with Distinction

BAR ADMISSIONS

- State Bar of California

COURT ADMISSIONS

- US Supreme Court
- US Court of Appeals for the Ninth Circuit

- US Court of Appeals for the Eighth Circuit
- US District Court for the Northern District of California
- US District Court for the Eastern District of California
- US District Court for the Central District of California

RECOGNITIONS

- Martindale-Hubbell Peer Review, AV Rating, 5 Stars

EXPERIENCE

- While at PM&S, Jack was counsel to a corporate defendant in the Paperboard, Corrugated Box, Fine Paper, and Milk Carton cases which involved antitrust criminal investigations and class litigation. He also represented a Silicon Valley computer manufacturer in an SEC investigation and subsequent class action involving revenue recognition issues—both of which were successfully settled. Along the way, he did the groundwork for a product liability case against an earth-moving heavy equipment manufacturer which settled favorably. He represented the owner of several cemeteries and funeral homes and convinced five Bay Area District Attorneys to drop potential criminal and civil charges relating to the management of related trust accounts. Later, he convinced the California AG's office, and then the Marin County and City of San Rafael, to drop proposed actions involving the cemeteries and trust accounts.
- Jack collaborated as co-counsel with John Bartko and Rob Bunzel for the defense of his client Gary Swanson, the Sr. Vice President for Sales of Hynix America, who was charged with price-fixing of DRAM memory chips in *United States v. Gary Swanson* (N.D. Cal. 2006, Case No. 06-CR-0692 PJH). After a four-week jury trial, the jury hung at 10 to 2 in favor of Mr. Swanson, and the Department of Justice decided not to retry Mr. Swanson.
- Jack, with Rob Bunzel and Michael Abraham, was part of the Bartko trial team that successfully defended an HVAC company against federal and state antitrust and commercial bribery claims in a 7-1/2 week civil jury trial which was confirmed on appeal. *Advanced Microtherm, Inc. v. Norman Wright Mechanical Equip. Corp.* (USDC, N.D. Cal. 2004, Case No. 04-CV-02266-JW); affirmed 525 Fed.Appx. 612, 2013 WL2350469, 2013-1 Trade Cases ¶ 78, 401 (9th Cir. 2013); certiorari den. 571 U.S. 1127 (Jan. 13, 2014).
- Jack was a member of the Bartko team that successfully defended a significant California healthcare system defendant in a 5-week antitrust class action jury trial in the Northern District of California, at the close of which the nine-member jury returned a unanimous defense verdict, finding that the firm's client did not tie its hospital services together and did not force insurance companies to contract with the system on allegedly anticompetitive terms.

- In 2019, Jack was part of the Bartko team who represented a large Northern California healthcare system in an antitrust case brought by the California AG and a certified class, which settled just after a San Francisco jury was seated.

INSIGHTS

PRESS RELEASE | 05, JUNE 2023

HOSPITALS SCORE ANOTHER MASSIVE VICTORY AGAINST THE BLUES AS COURT REJECTS INSURANCE COMPANIES' SECOND ATTEMPT TO DISMISS HEALTHCARE PROVIDERS' ANTITRUST CLAIMS

San Francisco, CA – In a June 5, 2023 Order, only made available on the public docket late June 6, 2023, the Honorable Evelio Grillo of the Alameda Superior Court, in VHS Liquidating Trust, et al. v. Blue Cross Blue Shield Association, et al., Case Number RG21106600, issued a comprehensive...

PRESS RELEASE | 01, JUNE 2022

COURT REJECTS INSURANCE COMPANIES' EFFORT TO DISMISS ANTITRUST CLAIMS AND LIMIT DAMAGES OF HEALTHCARE PROVIDERS

San Francisco, CA – On June 1, 2022, the Honorable Evelio Grillo of the Alameda Superior Court, in VHS Liquidating Trust, et al. v. Blue Cross Blue Shield Association, et al., Case Number RG21106600, issued two comprehensive orders that emphatically rejected the Defendants'...

PUBLICATIONS | 11, FEBRUARY 2021

JOHN MCLEAN AND PATRICK O'SHAUGHNESSY PUBLISH ARTICLE IN THE DAILY JOURNAL ON CRIMINAL ANTITRUST OFFENSES IN THE LABOR MARKET

John "Jack" McLean, Of Counsel to the firm, and Patrick O'Shaughnessy, a Principal of Bartko Bunzel & Miller, have published an article in the Los Angeles and San Francisco Daily Journal highlighting how the U.S. Department of Justice is following through on its warning to proceed...

PUBLICATIONS | 04, FEBRUARY 2021

LABOR MARKET CRIMINAL ANTITRUST OFFENSES IN THE CROSSHAIRS

John "Jack" McLean, Of Counsel to the firm, and Patrick O'Shaughnessy, a Principal of Bartko Bunzel & Miller, have published an article in the Los Angeles and San Francisco Daily Journal highlighting how the U.S. Department of Justice is following through on its warning to proceed...

PUBLICATIONS | 10, AUGUST 2020

ANALYZING IXCHEL V. BIOGEN'S NEW RULES

John "Jack" McLean, Of Counsel to the firm, and Patrick O'Shaughnessy, a Principal of Bartko Bunzel & Miller, have published an article in the San Francisco and Los Angeles Daily Journal analyzing two new pleading rules in Ixchel Pharma, LLC v. Biogen, Inc. Last week, the California...

PUBLICATIONS | 24, JUNE 2020

JOHN MCLEAN AND PATRICK O'SHAUGHNESSY PUBLISH ARTICLE IN THE DAILY JOURNAL ON ANALYZING IXCHEL V. BIOGEN'S NEW RULES

John "Jack" McLean, Of Counsel to the firm, and Patrick O'Shaughnessy, a Principal of Bartko Bunzel & Miller, have published an article in the San Francisco and Los Angeles Daily Journal analyzing two new pleading rules in Ixchel Pharma, LLC v. Biogen, Inc. Last week, the California...

PRESS RELEASE | 13, JANUARY 2014

ANTITRUST VICTORY SECURED IN SCOTUS

January 13, 2014 – The United States Supreme Court denied a writ of certiorari today, ending an 11-year legal fight that resulted in an 8-week jury trial win for the firm and its client Norman Wright Mechanical of Brisbane, CA. Plaintiffs sought the last resort of Supreme Court review to overtur...

PRESS RELEASE | 04, JUNE 2013

NINTH CIRCUIT VICTORY OBTAINED IN ADVANCED MICROTHERM, ET AL V. NORMAN S. WRIGHT MECHANICAL EQUIPMENT ANTITRUST CASE

On May 30, 2013, the team of Robert Bunzel, Michael Abraham, John McLean and William Edlund obtained confirmation of their prior federal district court verdict in an antitrust decision issued by the Ninth Circuit Court of Appeals. View a PDF copy of the decision.

PUBLICATIONS

- Labor market criminal antitrust offenses in the crosshairs
Co-Author of article published in the Los Angeles & San Francisco Daily Journal (February 2, 2021)
- Analyzing Ixchel v. Biogen's new rules
Co-Author of article published in the Los Angeles & San Francisco Daily Journal (August 11, 2020)
- Antitrust Agencies' "Guidance for Human Resource Professionals" Threatens Criminal Prosecution

Author of original article published in the San Francisco Daily Journal (February 13, 2017) titled "HR should heed DOJ antitrust guidance."

- Participating Editor, Update of Premerger Notification Practice Manual published by the Section of Antitrust Law of the American Bar Association (3rd ed. 2003).
- Author, "Raising the Threshold," San Francisco Daily Journal (March 2001).
- Author, "Tricky Transactions," San Francisco Daily Journal (October 1999).
- Co-Author, "Maximum Resale Price Maintenance Under the Cartwright Act," Competition, The Journal of the Antitrust and Trade Regulation Section of the State Bar of California (8 Competition 57 (Spring 1999)).
- Author, "Antitrust and Business Tort Claims," 1 California Antitrust Law (Second) 166 (J.M. Shohet and A.F. Hasse eds. 1997).
- Co-Author, "Implications of U.S. Supreme Court Decision That Vertically Imposed Maximum Resale Price Restrictions Should Be Tested Under the Rule of Reason, Not Per Se Rule," Pillsbury Madison & Sutro LLP (<http://www.pillsburylaw.com/articles/index.html>, November 1997).
- Author, "Price Discrimination and Secret Rebates Under California Law After ABC Traders International, Inc. v. Matsushita Electric Corporation of America," Pillsbury Madison & Sutro LLP (<http://www.pillsburylaw.com/articles/index.html>, July 1997).
- Co-Author, "Safe from Antitrust Claims? Don't Bet on It," Reinsurance Reporter 12 (No. 144, 3d Quarter 1995).
- Author, "Antitrust Violations and Compliance Programs," Crimes Against Business (Jules B. Kroll ed. 1979).

AREAS OF FOCUS

PRACTICES

Litigation