David A. Battaglia

Partner

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Los Angeles



David A. Battaglia is a partner in the Los Angeles office of Gibson, Dunn & Crutcher LLP, having joined the firm from law school in 1987. A senior member of the firm's Litigation Department, Battaglia has extensive and successful first-chair trial experience in business cases in federal and state courts, and in arbitration, with a principal focus on complex matters (see list below) – prevailing on behalf of both plaintiffs and defendants.

Mr. Battaglia was inducted into the elite International Academy of Trial Lawyers (IATL) in 2020. The IATL identifies and honors those who have achieved a career of high excellence through demonstrated skill and ability in jury trials, court trials and appellate practice, and is limited to 500 Fellows in the United States. He also has been inducted as a Fellow into the Litigation Counsel of America, and is a member of its Trial Law Institute and Diversity Law Institute. He is the Past President of the Board of Governors of the Association of Business Trial Lawyers (ABTL) in Los Angeles which has over 2,000 lawyers and jurists, and he has served on the Executive Committee of the Litigation Section of the Los Angeles County Bar Association.

He has been honored as one of “America’s Top 100 Civil Defense Litigators,” one of the “10 Best Civil Litigation Attorneys” in California for client satisfaction, the “Best Lawyers in America,” a “Lawyer of Distinction” in civil litigation, and a “Super Lawyer” for many years. Battaglia also was elected as a member of the prestigious Chancery Club in Los Angeles as a distinguished lawyer active in professional, civic and philanthropic affairs.

Mr. Battaglia has substantial and diverse industry and subject matter experience. He has been the lead litigator in numerous corporate control contests and hostile takeovers, related securities litigation, and DOJ, SEC, and state government investigations. He successfully has tried and managed corporate governance and earn-out disputes, consumer mass and class actions, entertainment litigation, eminent domain matters, and other real estate and construction cases. The breadth of his practice also includes matters in the fields of energy and natural resources, public utilities, and defense contracting and infrastructure.

A sample of clients he is representing and has represented include AECOM, SingPost, Integrated Micro-Electronics Inc., Howard Hughes Corp., Green Dot Corp., Motorcar Parts of America Inc., Sempra Energy, King’s Seafood Co., Parsons Corp., General Growth Properties Inc., Investcorp, The Sports Authority, J. H. Whitney Capital Partners, Emulex Corp., Computer Sciences Corp., Farmers Insurance Exchange, Tiffany & Co., ITT Educational Services Inc., International Education Corp., CBS Inc., Sony Music Entertainment Inc., Fox Sports, Southern California Gas Co., San Diego Gas & Electric Co., AGL Resources Inc., General Electric, Encana Corp., Raytheon, Hughes Missile Systems Co., National Crane, K2 Industries Inc., Spark Networks, UberMedia, Peoplesoft Corp., Metromedia Inc., Pinnacle Entertainment Inc., Search Optics, The Rubicon Project, inTEAM, BWAY Corp., California Water Service Corp. and Neil/John Edwards of Dunn Edwards Corp.

Capabilities

Litigation
Antitrust and Competition
Appellate and Constitutional Law
Class Actions
Energy and Infrastructure
Labor and Employment
Law Firm Defense
Life Sciences
Media, Entertainment, and Technology
Oil and Gas
Power and Renewables
Privacy, Cybersecurity, and Data Innovation
Securities Litigation
Tech and Innovation
Transportation and Space

Credentials

Education

University of California - Berkeley - 1987 Juris Doctor

Georgetown University - 1984 Bachelor of Arts

Admissions

California Bar

District of Columbia Bar

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Battaglia has been admitted to practice in the U.S. Supreme Court; federal Courts of Appeal for the Fourth, Fifth, Ninth and D.C. Circuits; federal District Courts in California, the District of Columbia, New York, New Jersey, Florida, Tennessee, Texas, Virginia, and the Commonwealth of the Northern Mariana Islands; and all courts in the State of California and in Washington, D.C.

Mr. Battaglia is a graduate of Georgetown University with honors, and a double major in English and Government. He earned his law degree in 1987 at the University of California, Berkeley (then Boalt Hall) School of Law. Prior to joining Gibson Dunn, Battaglia worked for a member of Congress in Washington, D.C.

Battaglia has served on the Board of Directors of the Girl Scouts of Greater Los Angeles, which is committed to more than 40,000 girls and young women annually. He also served on the Board of Hathaway-Sycamores Child and Family Services, Inc., a non-profit organization dedicated to mental health which helps more than 8,000 children annually in the Los Angeles area. He and his wife Julie live in La Cañada Flintridge, California.

Representative jury trials, non-jury trials, arbitrations, and appellate experience are described in more detail below.

Representative Trials and Arbitrations and Injunctions:

- ***AECOM v. [Venture]* (2021):** Lead trial counsel in a successful arbitration dispute concerning the deconstruction of a nuclear power plant.
- ***Metropolitan Transportation Authority (MTA) v. Southern California Gas Co.* (2019-2021):** Prevailed in the Los Angeles Superior Court and the California Court of Appeal in what MTA declared was $800 million dispute, where MTA attempted to hold SoCalGas responsible for the costs of utility relocations caused by MTA's new transit rail projects.
- ***inTEAM Associates LLC v. Heartland Payment Systems* (2021):** Lead trial counsel in Delaware Chancery Court concerning the ownership and use of school payment technology.
- ***ITX v. King's Seafood Co.* (2019-2020)**: Lead trial counsel in a construction defect dispute in Orange County Superior Court involving a high-end restaurant. Case settled on the eve of trial.
- ***[Holder Representative] v. Green Dot Corp.* (2018)**: Lead counsel in an arbitration before an independent accounting firm on behalf of the respondent regarding whether an earn-out was earned and required to be paid, which was successfully resolved.
- ***[Sex Trafficking Victim] v. California Attorney General*** (2018): Lead counsel in Los Angeles Superior Court where the court found for our client that the Attorney General's position was erroneous and that the correct statutory interpretation entitled payment of necessary therapeutic expenses. Success acknowledged by the Coalition Against Slavery and Trafficking.
- ***Neil Edwards & John Edwards, and Dunn Edwards Corp. v. Peter Edwards* (2016/2017)**: Lead trial counsel in Delaware Chancery Court for Neil & John Edwards, in a dispute involving whether a Stockholders Agreement inhibited the sale of Dunn Edwards Corp. to a strategic buyer. Case favorably settled following the completion of trial, briefing and submission of the matter, and Dunn Edwards Corp. subsequently sold for a reported amount in excess of $550 million.
- ***San Diego Gas & Electric Company v. City of Laguna Beach* (2017):** Lead counsel on behalf of the public utility in federal court in Orange County in an action to set aside a municipal ordinance as violative of the Contracts Clause of the U.S. Constitution and as otherwise unconstitutional. Ordinance was withdrawn by the City.
- ***H. Whitney Capital Partners v. [Seller*] (2013):** Co-lead trial counsel for one of the oldest private equity firms in the nation, J.H. Whitney, in a six-week AAA

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arbitration before the Honorable Carlos Moreno, retired California Supreme Court Justice and current U.S. Ambassador. Client was pleased with the representation. Opposing party and arbitration award is confidential under AAA rules.

- ***Schultz v. Douglas Steel Supply Co.* (2013):** Lead trial counsel for the plaintiff in a six-week court trial in Los Angeles County Superior Court involving claims for involuntary dissolution of a corporation, breach of fiduciary duty, conversion, and an accounting. Case favorably settled after closing argument.
- ***Santa Clara Valley Transportation Authority v. General Growth Properties, Inc.* (2012 and 2014):** Lead trial counsel in an eminent domain case in Santa Clara County Superior Court representing the second largest mall owner in the nation. The court permitted the right to take, but the case was settled favorably in 2014 on the eve of a jury trial on the issue of just compensation.
- ***[Mother] v. [Father]* (2012):** Lead trial counsel for a mother of three children in a domestic abuse action *pro bono publico* in Los Angeles County Superior Court. After a three day trial, the court found in favor of our client, granted a permanent protective order against the father, and awarded sole physical and legal custody of the children to the mother, subject to periodic visitation.
- ***Southern California Gas Company v. City of Alhambra* (2011):** Lead counsel on behalf of the public utility in federal court in Los Angeles in an action to set aside a municipal ordinance as violative of the Contracts Clause of the U.S. Constitution. Judgment was obtained for our client.
- ***Fiber Technology Corp. v. Parsons Infrastructure and Technology, Inc.* (2009):** Lead trial counsel for Parsons in a five-week jury trial in Los Angeles County Superior Court involving contract disputes over Iraq reconstruction efforts. Jury verdict obtained in favor of our client.
- ***[Class of Students] v. ITT Educational Services, Inc.* (2008):** Lead counsel in six arbitrations before different former judges and experienced AAA arbitrators in Houston, Texas involving claims for fraud, negligence, breach of contract, deceptive trade practices, and education code violations. The arbitrations lasted between five weeks and two days. Client was pleased with the representation. Opposing parties and results are confidential under AAA rules.
- ***Caruso Affiliated Holdings, LLC v. General Growth Properties, Inc.* (2007):** Co-lead trial counsel for General Growth in a seven-week jury trial in Los Angeles County Superior Court involving claims for antitrust violations, tortious interference, and unfair competition arising from alleged contacts with potential tenants of a competing shopping mall. The antitrust and unfair competition claims against our client were dismissed at trial, and the remaining claim was settled after a jury verdict.
- ***Holiday Partnerships v. Shelter Management Corp.* (2007):** Lead counsel for Shelter Management in fraud, receivership, and partnership dissolution proceedings in Los Angeles County Superior Court involving twenty multi-family dwellings. Successfully opposed injunctive relief and the appointment of a receiver, and the matter thereafter was favorably resolved.
- ***Commonwealth of the Northern Mariana Islands v. Carlsmith Ball LLP* (2003):** Co-lead counsel for defendant in the U.S. District Court for the Commonwealth of the Northern Mariana Islands in Saipan and in Los Angeles County Superior Court. Obtained declaratory and injunctive relief on behalf of our client, and the Commonwealth subsequently dismissed its claims.
- ***Southern California Gas Company v. City of Santa Ana* (2002):** Lead counsel on behalf of the public utility in federal court in Los Angeles in an action to set aside a municipal ordinance as violative of the Contracts Clause of the U.S. Constitution. Judgment was obtained for our client.
- ***Sunclipse Inc. v. Dell* (2000):** Lead counsel for Sunclipse in a Los Angeles Superior Court proceeding seeking injunctive relief for misappropriation of trade secrets. Judgment was obtained for our client.

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- ***Arakelian v. North's Bakery, Inc.* (1999):** Lead counsel for defendant in an arbitration in a breach of contract and tortious interference action involving a buyout agreement. A decision was rendered for our client.
- ***Carter v. Loxley Public Company* (1997):** Co-lead counsel in a two-month jury trial in San Francisco County Superior Court for plaintiffs in a dispute alleging wrongful termination and breach of contract. Jury verdict was issued in favor of one plaintiff and against the other.
- ***Weber v. Fidelity Federal Bank* (1996):** Lead trial lawyer in Los Angeles County Superior Court for Fidelity Federal Bank involving claims by 40 plaintiffs that the bank miscalculated interest on adjustable rate mortgages. Decision for our client was obtained on all claims.
- ***MobilWorks v. L.A. Cellular Telephone Company* (1996):** Lead counsel for L.A. Cellular in an arbitration challenging its exclusive distribution agreement as unenforceable and an unreasonable restraint of trade. Decision was rendered for our client.
- ***Yamahata v. Tiffany & Company* (1995):** Co-lead trial counsel for Tiffany in a month long jury trial in Los Angeles County Superior Court involving wrongful termination claims and gray market activities. Decision was obtained for our client.
- ***Chaltiel v. Abbey Healthcare, Inc.* (1994):** Co-lead counsel for the plaintiff in a wrongful termination, breach of contract and fraud dispute. The matter was resolved favorably after a two-month AAA arbitration.
- ***Strong v. Coutin* (1993):** Lead trial counsel in a bench trial in Los Angeles County Superior Court involving rights to easements and improvements, as well as the abatement of nuisances. Decision was obtained for our client.
- ***Adrabi v. Rozillio* (1993):** Lead trial counsel for defendant in a real estate fraud dispute in Los Angeles County Superior Court. The matter settled favorably during trial.

Representative Appellate Experience:

- ***Los Angeles County Metropolitan Transit Authority v. Southern California Gas Co.*, 2021 WL 3579191, *as modified on denial of reh'g* and *review denied* (Cal. Ct. App. 2021)**. Lead counsel in decision for client Southern California Gas Co. in what MTA stated was an $800 million dispute holding that utilities were not required to pay for facility relocations caused by MTA's new transit construction projects.
- ***ITT Educational Services, Inc. v. Arce*, 533 F.3d 342 (5th Cir. 2008).** Lead counsel in a precedential decision in favor of our client ITT Tech holding that a confidentiality clause in an arbitration agreement is fully enforceable and prevents disclosure of evidence or the result in subsequent proceedings.
- ***California Farm Bureau Federation v. California State Water Resources Control Board*, 146 Cal. App. 4th 1126 (2007) (rev. granted).** Co-lead counsel in a groundbreaking decision in favor of our client that the implementation of a state statute imposing water rights "fees" on a broad class of California citizens violates Proposition 13's bar against new state taxes.
- ***Southern California Gas Company v. City of Santa Ana*, 336 F.3d 385 (9th Cir. 2003).** Lead counsel in a decision with nationwide implications, where the court affirmed our client's position that a municipal ordinance imposing new fees in addition to those paid under a franchise agreement violates the Contracts Clause of U.S. Constitution.
- ***Lockheed Martin Corp. v. Superior Court*, 109 Cal. App. 4th 24 (2003) (rev. granted, rev. dismissed and superseded by statute).** Co-lead counsel in a decision where the court held that news publicity was sufficient to commence the running of the statute of limitations in an "Erin Brockovich" toxic tort action.
- ***Adaptive Power Solutions v. Hughes Missile Systems Co.*, 141 F.3d 947 (9th**

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Cir. 1998). Co-lead counsel in an oft-cited decision that affirms that injury to competition is required to demonstrate an antitrust violation.

- ***Engel v. CBS, Inc.*, 981 F.2d 1076 (9th Cir. 1992)**. Lead counsel in a decision for CBS, Inc. that applies conflict of law principles and mandates that the law of New York should govern a malicious prosecution dispute, resulting in our clients ultimately prevailing.

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