

Charles G. Miller



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Education

University of California, Berkeley, School of Law (Boalt Hall), J.D., 1966

University of California at Berkeley, B.A. (Political Science), 1963

Professional Affiliations

State Bar of California, Franchise Law Committee (Co-Chair, 2002 and Member, 2013-2016)

American Bar Association, Dispute Resolution and Litigation Sections and Forum Committee on Franchising

California State Bar Franchise and Distribution Law Advisory Commission (2008-2011)

International Franchise Association Legal/Legislative Committee

International Bar Association

Lawyer Representative to Ninth Circuit Judicial Conference - Northern District of California (2004-2007)

Neutral Arbitrator, American Arbitration Association

Member, Early Neutral Evaluation Panel and Mediation Panel, United States District Court, Northern District of California

AAA Arbitration Fundamentals and Best Practices - 2007 [2 days]

Practice Areas

Business Litigation

Class Action Litigation

Commercial Arbitrator and Mediator

Financial Institution Litigation

Franchise and Distribution Litigation

Experience

Chuck Miller is a mediator, arbitrator and trial attorney who specializes in complex business litigation matters. He also is one of the founding principals of the firm and founded its franchise practice group. Over his years of practice, he has worked with numerous high profile and highly respected attorneys, judges, and businesses throughout the country.

Mr. Miller is a strong believer in alternative dispute resolution (ADR) and other methods that work to avoid or streamline litigation. His objective has always been to litigate in an efficient manner, utilizing the resources of the firm in such a way as to minimize the costs and expenses to the client. Mr. Miller's capable demeanor, legal acumen, and effectual communication style has served him well over the years and today he is more and more called upon to mediate and arbitrate matters. He is a people-person who knows the ins and outs of the ADR process and works diligently to resolve disputes on behalf of all parties involved. He also serves as an expert witness, principally in franchising disputes. Mr. Miller has completed a course in Early Dispute Resolution ("EDR") and is now EDR certified. EDR is an innovative approach to dispute resolution. It cuts through lots of red tape associated with normal ADR and results in a cost-effective and speedy result. It is designed to focus on the key issues and what is really needed to resolve the dispute.

Mr. Miller also acts as a neutral both for the Early Neutral Evaluation and Mediation Program for the federal court in San Francisco. He has served as a neutral arbitrator and chair on arbitrations administered by the American Arbitration Association in a number of matters, including wrongful termination of franchise, failure to renew franchise, breach of implied and express contract when franchisor acquires other brands, misrepresentations or omissions in franchise disclosure documents, and software failures. In addition to matters that can be arbitrated in one day, Mr. Miller has also been called and has handled multi-day, complex case arbitrations.

Over the course of his career, Mr. Miller has handled legal matters including class actions and multi-district litigation in various state and federal courts. Known for his keen understanding of the franchise business and industry, Mr. Miller has handled a number of franchise and distribution cases and has been a featured speaker at the American Bar Association's Forum on Franchise and programs of the International Franchise Association. He has published a number of articles on litigation and franchise issues and has been certified as a specialist in Franchise and Distribution Law by the State Bar of California Board of Legal Specialization.

Professional Affiliations [Con't.]

ENE Training, N.D. Cal. - 2009 [2 days]/
Mediation Training, N.D. Cal. - 2011 [2 days]

Mediation Certificate Trainings - 40 hours
(October 1, 8, 15, 22 and 29, 2016), University
of California Berkeley Extension (Ron Kelly)

Bar Admissions

State Bar of California, Litigation and Business
Law Sections

Honors

Named as a "Super Lawyer" by Thomson
Reuters on numerous occasions

Recognized by "Best Lawyers," Franchise Law
(2016-2021)

Named as a leading lawyer in Chambers USA
(2018-2020)

Named as a Franchise Times "Legal Eagle"

Listed in "Who's Who Legal 2019 Franchise
Edition"

ADR Training

Federal District Court Mediator and ENE
Training

40-Hour Mediator Training with U.C. Berkeley
Extension (Ron Kelly)

Representative Cases

Represented a large auto manufacturer in a nationwide RICO class action claiming that auto allocations were made on the basis of bribes. *In re American Honda Motor Co., Inc. Dealerships Relations Litigation* (1996) 941 F.Supp. 528.

Successfully defended a franchisor charged with fraudulently including a number of franchises into buying franchises. *Scott et al. v. Minuteman Press International, Inc. et al.* (9th Cir. 1993) 68 F.3d 481, 1995 WL 608489; CCH Bus. Franchise Guide ¶ 10,344 (N.D. Cal.).

Represented a national franchisor in class actions claiming that open account financing was usurious and its failure to pay rebates, discounts and allowances to franchisees resulting in landmark ruling on federal preemption of state law by the Federal Arbitration Act. *Keating et al. v. Superior Court* (1982) 31 Cal.3d 584; *Southland Corporation v. Keating et al.* (1984) 465 U.S. 1.

Represented a franchisee of three cosmetology schools in a one-week arbitration against the franchisor involving termination issues in 2012. Details cannot be furnished due to confidentiality of arbitration matters.

Represented the plaintiff class in a Ponzi scheme case against a bank, an accounting firm and law firm. *Grafton Partners v. Superior Court* (2005) 36 Cal.4th 944.

Represented the FDIC in litigation against the directors and officers of a failed bank charging them with breach of fiduciary duty in approving a series of negative debt service coverage loans. *FDIC v. Garwood et al.* (N.D. Cal. 2014), 3:14cv00390.

Drafted the amicus brief in *Cislav v. Southland* (1992) 4 Cal.App.4th 1287 that established that the control necessary to promote goodwill and brand protection did not result in an employment relationship.

Defended franchisors and sub-franchisors against claims that franchisees are employees so that PAGA (Private Attorney General Act) and labor laws apply and enforcing arbitration provisions in their franchise agreements.

Was an expert witness on the adequacy of franchise disclosure, on franchise lawyer malpractice concerning conduct of arbitration, standard practices and billing issues.

Assisted in the defense of prominent San Francisco attorney against multi-million dollar claim for a referral fee in antitrust class action suit.

Publications/Speaking Engagements

Wrote an article titled "Ways to Reduce or Eliminate High Costs of Mediation, Arbitration, and Litigation"

"Despite Successes in Fending Off Claims Based on Actual Authority, Franchisors Still Face Difficulties in Defending Claims Based on Ostensible Authority," *The State Bar of California - Business Law News* (June 2017)

"Dine & Dash Arbitration Style: What Happens When One Side Doesn't Pay the Arbitrator," Co-author; *The Franchise Lawyer* (Spring 2017)

Publications/Speaking Engagements [Continued]

Wrote an article titled "Piercing the Mystique of Class Action Waivers: Are They Effective?" about enforcement of class action waiver provisions and drafting suggestions that should result in enforceability of those provisions and avoiding claims of unconscionability.

Gave two webinars on behalf of the California State Bar Business Law Section, Franchise Law Committee, and the Knowledge Group discussing the joint employer issue in franchising.

Co-author of "Look Out! It May Be A Franchise"

"NLRB Changes Rules For Determining Joint Employers: Traditional Franchise Arrangements May Not Be Affected," Franchising Business and Law Alert News Letter, Court Watch (October 2015)

Co-author of "California Franchise Law and Practice, Chapter 12 - Case Law Highlights" (2013 Edition)

Speaker at the American Bar Association 35th Annual Forum on Franchising Paper, "Using Franchise Attorneys as Expert Witnesses - Not For Legal Malpractice Cases Anymore" (October 2012)

"Supreme Court Gives Green Light to Arbitration Provisions," 10/1/11 Bank News 27 or 2011 WLNR 21078417 (October 1, 2011)

"How to Avoid the Impact of Laxmi and Unconscionability on Out-of-State Forum," 22 Franchise Law Journal 117 (Fall 2002)

Co-author of "Enforceability of Arbitration Clauses Affected by Recent Cases," Franchise Dispatch, Volume 1, Issue 1 (January 2002)

Co-author of "The FAA on a Collision Course with the Unconscionability Doctrine," 21 Franchise Law Journal 4 (Summer 2001)

Presented at the International Franchise Association Annual Legal Symposium, Washington, D.C. on Current Developments in Covenants Not to Compete (May 17-19, 1998)

Co-author of "The Definition of a Franchise: A Survey of Existing State Legislative and Judicial Guidance," 9 Franchise Law Journal, Issue 2, Page 3 (Fall 1989)