

Hon. Vaughn R. Walker



Judge Vaughn R. Walker was a United States District Court Judge, Northern District of California, from February 1990 through February 2011. The court is headquartered in San Francisco. In April 2011, Judge Walker returned to private practice focusing on arbitration and mediation services.

Judge Walker was nominated by President George H W Bush and earlier by President Reagan and confirmed by the United States Senate in November 1989. Judge Walker was the Chief Judge from September 2004 until December 31, 2010. Judge Walker is a 1966 graduate of the University of Michigan. He worked briefly at the Securities & Exchange Commission and was a Woodrow Wilson Fellow in economics at the University of California (Berkeley). He studied law at the University of Chicago and Stanford University (JD 1970).

From 1971 to 1972, Judge Walker was law clerk to the Honorable Robert J Kelleher of the United States District Court in Los Angeles. From 1972 to 1990, he practiced law with Pillsbury Madison & Sutro (now Pillsbury Winthrop Shaw Pittman) in San Francisco, becoming a partner in 1978.

In 2007, Judge Vaughn Walker was assigned by the Judicial Panel on Multidistrict Litigation to handle *In re National Security Agency Telecommunications Records Litigation*, MDL No 06-1791, a series of cases challenging telecommunications carriers' alleged cooperation with the Terrorist Surveillance Program of the Bush administration. Judge Walker denied motions by the government and telecommunications carriers to dismiss the litigation on the ground that it would reveal state secrets. *Hepting v A T & T*, 439 F Supp2d 974 (ND Cal 2006). In later decisions, Judge Walker held that the Foreign Intelligence Surveillance Act preempted the state secrets privilege with respect to foreign telecommunications surveillance, *In re National Security Agency Telecommunications Records Litigation*, 564 F Supp 2d 1109 (ND Cal 2009); denied government motions to dismiss claims in one case, *Al-Haramain Islamic Foundation, Inc v. Bush*, 595 F Supp 2d 1077 (ND Cal 2009) and later ordered entry of a judgment in favor of the plaintiffs in that case, 700 F Supp 2d 1182 (ND Cal 2010) while dismissing other cases on grounds of legislatively enacted retroactive immunity and standing. See 630 F Supp 2d 1092 (ND Cal 2009); 633 F Supp 2d 949 (ND Cal 2009) and *Jewel v National Sec Agency*, 2010 WL 235075 (ND Cal 2010).

In 2000, Judge Walker was assigned by the Judicial Panel on Multidistrict Litigation to handle a series of cases arising out of claims by former prisoners of war; resolution of the claims required interpretation of provisions in the 1951 Treaty of Peace entered into by the United States, Japan and other nations. *In re World War II Era Japanese Forced Labor Litigation*, 164 F Supp 2d (ND Cal 2001), affirmed sub nom *Deutsch v Turner Corp*, 317 F 3d 1005 (9th Cir 2003), reh denied, 324 F 3d 692; certiorari denied 540 US 820 (2003).

Judge Walker has tried and decided a number of competition proceedings; these include: *United States v Oracle Corp*, 331 F Supp 2d 1098, 2004-2 Trade Cases ¶ 74,542 (N D Cal 2004); Judge Walker's decision was not appealed and later followed by the Commission of the European Communities in Case No COMP/M 3216 - Oracle / PeopleSoft, Commission Decision (26 October 2004). Other antitrust and competition related trials include, among others, *In re Tableware Antitrust Litigation*, see, 241 FRD 644 (ND Cal 2007) and 484 F Supp 2d 1059 (ND Cal 2007), involving the fine tableware industry, and *Reilly v Hearst*, 107 F Supp2d 1192 (ND Cal 2000), involving the newspaper industry.

Judge Vaughn Walker has also handled numerous securities cases and class actions as well as cases involving the interplay of domestic and international law governing compensation of tort victims. The latter include, among others, *In re Air Disaster Near Honolulu, Hawaii* on Feb 24, 1989, MDL No 807, 792 F Supp 1541 (ND Cal 1990) and *In re Deep Vein Thrombosis Litigation*, MDL No 04-1606 (ND Cal 2007), both multidistrict dockets assigned to Judge Walker.

Among other notable litigation handled by Judge Walker were the various cases involving copyrights to the graphical user interface features found on most computer screens. *Apple Computer, Inc v Microsoft Corp*, 799 F Supp 1006 (ND Cal 1992), clarified 27 USPQ 2nd 1081 (ND Cal 1993), affirmed 35 F 3d 1435 (9th Cir 1994); certiorari denied 513 US 1184 (1995); *Xerox Corp v Apple Computer, Inc*, 734 F Supp 1542 (ND Cal 1990).

In 2010, Judge Walker tried *Perry v Schwarzenegger*, 704 F Supp 2d 921 (ND Cal 2010), an action challenging a California ballot initiative precluding the state from recognizing marriages between same-sex couples. Judge Walker found the initiative measure invalid and ruled it unconstitutional.

In twenty-one years on the federal bench, Judge Walker handled about 8,000 cases, more than 250 trials, numerous settlement conferences and sat by designation on the United States Courts of Appeals for the Ninth Circuit and the Federal Circuit. Judge Walker currently teaches a complex litigation course at the University of California Berkeley School of Law.

Judge Vaughn Walker served as a member of the Civil Rules Advisory Committee of the Judicial Conference of the United States, is the former chair of the St Francis Foundation, a member of the American Law Institute and other professional organizations. He is a former member of the California Law Revision Commission, president of the Lawyers' Club of San Francisco and judicial representative of the American Bar Association Section of Antitrust Law.

Areas of Expertise:

- SECURITIES
- INSURANCE LAW
- ANTITRUST
- CIVIL RIGHTS
- INTELLECTUAL PROPERTY (COPYRIGHT, TRADEMARK, PATENT LAW AND TRADE SECRETS)
- *QUI TAM* ACTIONS
- FOREIGN CORRUPT PRACTICES ACT

ADR Experience and Qualifications:

- Twenty-one years on the federal bench; handled about 8,000 cases, more than 250 trials, presiding over a full range of motions, managing discovery and conducting settlement conferences.
- Sat by designation on the Federal Circuit and the Ninth Circuit Court of Appeals and he served as a member of the Civil Rules Advisory Committee of the Judicial Conference of the United States
- Teaches a complex litigation course at the University of California Berkeley School of Law.
- Arbitrated or mediated approximately 50 complex civil cases since leaving the bench

Representative Matters:

Civil Liberties and National Security:

- In re National Security Agency Telecommunications Records Litigation, MDL No 06-1791, 633 F Supp 2d 949 (N D Cal 2009)(upholding Foreign Intelligence Surveillance Amendments Act) and including the following individual cases:
 - Al-Haramain Islamic Foundation v Bush, 700 F Supp 2d 1182 (N D Cal 2010)(Foreign Intelligence Surveillance Act allows private remedy); 595 F Supp 2d 1077 (N D Cal 2009)(classified information in litigation); 564 F Supp 2d 1109 (N D Cal 2008)(state secrets privilege); 2010 WL 5663950 (N D Cal 2010)(attorney fees awarded)
 - Hepting v A T & T Corporation, 439 F Supp2d 974 (N D Cal 2006)(state secrets privilege)
 - Clayton v AT & T Communications of the Southwest, Inc, 630 F Supp 2d 1092 (N D Cal 2009)(Foreign Intelligence Surveillance Act upheld)
- Perry v Schwarzenegger, 704 F Supp 2d 921 (N D Cal 2010)(provision prohibiting recognition of same sex marriages unconstitutional)
- In re World War II Era Japanese Forced Labor Litigation, 114 F Supp 2d 939 (N D Cal 2000); 164 F Supp 2d (N D Cal 2001), affirmed sub nom Deutsch v Turner Corp, 317 F 3d 1005 (9th Cir 2003), reh denied, 324 F 3d 692; certiorari denied 540 US 820 (2003)(reparations barred by United States-Japan Peace Treaty)
- California First Amendment Coalition v Calderon, 2000 WL 33173913 (N D Cal 2000) affirmed 299 F 3d 868 (9 Cir 2002)(media access to executions)

Technology:

- UniRAM Technology, Inc v Taiwan Semiconductor Mfg Co, 617 F Supp 2d 938 (N D Cal 2007)
- 3Com Corp v D-Link Systems, Inc, 473 F Supp 2d 1001 (N D Cal 2007)
- Reiffin v Microsoft Corp, 281 F Supp 2d 1149 (N D Cal 2003) affirmed 410 Fed Appx 332 (Fed Cir 2011) ; 270 F Supp 2d 1132 (N D Cal 2003); 158 F Supp 2d 1016 (N D Cal 2001)

- Apple Computer, Inc v Microsoft Corp, 821 F Supp 616 (N D Cal 1993); 799 F Supp 1006 (N D Cal 1992); affirmed except on attorney fees, 353 F 3d 1435 (9 Cir 1994), certiorari denied 513 US 1184 (1995)
- Xerox Corp v Apple Computer, Inc, 734 F Supp 1542 (N D Cal 1990)

Competition and Antitrust:

- Theme Promotions, Inc v News America Marketing FSI, Inc, 731 F Supp 2d 937 (N D Cal 2010)
- Pecover v Electronic Arts, Inc, 633 F Supp 2d 976
- In Re Tableware Antitrust Litigation, 485 F Supp 2d 1121 (N D Cal 2007)(granting and denying summary judgment); 484 F Supp 2d 1059(direct and indirect purchaser claims distinguished); 1078 (N D Cal 2007)(partial settlement approved); 241 FRD 644 (N D Cal 2007)(class certified)
- United States v Reliant Energy Services, Inc , 420 F Supp 2d 1043 (N D Cal 2006)
- Brennan v Concord EFS, Inc, 369 F Supp 2d 1127 (N D Cal 2005)
- United States v Oracle Corp, 331 F Supp 1098 (N D Cal 2004), followed Case No COMP/M 3216-Oracle/PeopleSoft, Commission of the European Communities (2004)
- California ex rel Lockyer v Mirant Corp, 266 F Supp 2d 1046 (N D Cal 2003), affirmed 375 F 3d 83 and 387 F 3d 966 (9 Cir 2004), certiorari denied 544 US 974 (2005)
- Fricke-Parks Press, Inc v Fang, 149 F Supp 2d 1175 (N D Cal 2001)
- Reilly v Hearst Corp, 107 F Supp 2d 1192 (N D Cal 2000)
- Levi Case Co, Inc v ATS Products, Inc, 788 F Supp 428 (N D Cal 1992)

Securities:

- In re Nuvelo, Inc Securities Litigation, 668 F Supp 2d 1217 (N D Cal 2009)
- In re Cylink Securities Litigation, 274 F Supp 2d 1109 (N D Cal 2003) and Wenderhold v Cylink, 191 FRD 600 (N D Cal 2000); 189 FRD 570 (N D Cal 1999)
- In re California Micro Devices Securities Litigation, 965 F Supp 1327 (N D Cal 1997); 168 FRD 276 (N D Cal 1996)
- In re Clearly Canadian Securities Litigation, MDL No 993, 875 F Supp 1410 (N D Cal 1995)
- In re Seagate Technology II Securities Litigation, 843 F Supp 1341 (N D Cal 1994) affirmed 98 F 3d 1346 (9 Cir 1996)
- In re Oracle Securities Litigation, 852 F Supp 1437 (N D Cal 1994); 829 F Supp 1176 (N D Cal 1993); 136 FRD 639 (N D Cal 1991); 132 FRD 538 (N D Cal 1990); 131 FRD 688 (N D Cal 1990)

Personal Injury & Related Torts:

- Yamagiwa v City of Half Moon Bay, 523 F Supp 2d 1036 (N D Cal 2007)

- In re Deep Vein Thrombosis, MDL No 04-1606, 356 F Supp 2d 1055 (N D Cal 2005) affirmed in part sub nom Montalvo v Spirit Airlines, 508 F 2d 464 (9 Cir 2007)
- Miller v Continental Airlines, 260 F Supp 2d 931 (N D Cal 2003)
- In re Air Crash Disaster Near Honolulu, Hawaii on Feb 24, 1989, MDL No 807, 783 F Supp 1261 (N D Cal 1992) ; 792 F Supp 1541 (N D Cal 1990)

Class Actions:

- In re TD Ameritrade Accountholder Litigation, 266 FRD 418 (N D Cal 2009)
- Leuthold v Destination America, Inc, 224 FRD 462 (N D Cal 2004)

MDL Experience:

- In re Beef Industry Antitrust Litigation – Antitrust 1976-1989
- In re Air Crash Disaster Near Honolulu, Hawaii, on Feb. 24, 1989 – Mass Tort 1989-1993
- In re Clearly Canadian Securities Litigation – Securities 1993-1999
- In re Patriot American Hospitality Inc. Securities Litigation – Securities 1999-2005
- In re World War II Era Japanese Forced Labor Litigation – Human Rights 2000-2001
- In re Deep Vein Thrombosis Litigation – Mass Tort 2004-2008
- In re National Security Agency Telecommunications Records Litigation – Nat’l Security 2006-2011
- In re Optical Disk Drive Products Antitrust Litigation – Antitrust 2009-2018
- In re Cathode Ray Tube (Crt) Antitrust Litigation – Antitrust – Pending Special Master
- In re Lithium Ion Batteries Antitrust Litigation – Antitrust – Pending Special Master

Notable Litigation in Law Practice:

- Legislature v Deukmejian, 34 Cal 3d 658 (1983)
- State of California v County of Santa Clara, 142 Cal App 3d 608 (1983)
- International Olympic Committee v San Francisco Arts & Athletics, 219 USPQ 983 (N D Cal 1982), affirmed 707 F 2d 517 (9 Cir 1983), 483 US 522 (1987)
- Doe v City & County of San Francisco, 136 Cal App 3d (1982)
- Olson Farms, Inc v Safeway Stores, Inc, 649 F 2d 1370 (10 Cir 1979)
- Zylstra v Safeway Stores, Inc, 578 F 2d 102 (5 Cir 1978)

Judge Vaughn Walker Articles:

- “Merger Trials: Looking for the Third Dimension,” 5 Competition Pol’y Int’l 35 (2009)
- “The Ethical Imperative of a Lodestar Cross-Check: Judicial Misgivings about ‘Reasonable Percentage’ Fees in Common Fund Cases,” 18 Georgetown Journal of Legal Ethics 1453 (2005)

- Comment, “Federalizing Organized Crime,” 46 Hastings L J 1127 (1995)

Judge Vaughn Walker Selected Speeches and Educational Presentations:

- “Evidencia científica para jueces,” Consejo de la Judicatura y Comisión Federal de Competencia, Ciudad de Mexico, Mexico, 2017
- “Unfinished Business,” Annual Meeting and Installation Dinner, Anti-Defamation League, Central Pacific Region, San Francisco, 2013
- “Who’s Paying? New Developments in Funding,” 5th Annual Conference on Globalization of Class Actions and Mass Litigation, Tilburg University Law School, The Hague, 2011
- “Private Anti-Monopoly Litigation,” University of International Business & Economics, Beijing, 2011
- “Anti-Cartel Criminal Sanctions,” 8th Annual Trade Practices Workshop, University of South Australia, Adelaide, 2010
- “Rules of Evidence,” Thailand-United States Judicial Conference, Bangkok, 2010
- “Handling Classified Information,” Federal Judicial Center Workshop, Washington, DC 2010
- Keynote Speaker, ABA Antitrust Masters Course V, Williamsburg, VA, 2010
- “Evidence in Competition Cases,” EU Competition Law and Policy Workshop, Florence, Italy, 2009
- “Recent Supreme Court Decisions,” Practising Law Institute, 50th Annual Antitrust Law Institute, San Francisco, 2009
- “Assessing Economic Evidence in Competition Cases,” Federal Competition Commission (CFC) Conference, Mexico City, 2008
- “Comparing the Trinidad Fair Trade Law,” United Nations Conference on Trade & Development Judicial Conference, Port of Spain, Trinidad, 2007
- “The Art and Science of Serving as a Special Master,” ALI/ABA Conference, San Francisco, 2006
- “Standards of Proof for Relevant Market Determinations,” United Nations Conference on Trade & Development Judicial Conference, Bali, Indonesia, 2006
- “Search for a Competition Metric,” International Bar Association Annual Meeting, Prague, 2005
- “Roles of Courts in Competition Cases and Policy,” United Nations Conference on Trade & Development Competition Conference, Cairo, Egypt, 2005
- “Techniques for Multi-district Transferee Judges,” XXXIII Transferee Judges Conference, Palm Beach, Florida, 2002
- Lead-Off Speaker, XXIV Multi-district Transferee Judges’ Conference, Palm Beach, FL, 1993
- Keynote Speaker, 9th Annual Biotechnology Law Institute, San Francisco, 1993

Judge Vaughn Walker Education:

- AB distinction & high honors, 1966 University of Michigan, Ann Arbor
- Woodrow Wilson Fellow, 1966-67 University of California, Berkeley
- JD, 1970 Stanford University