

# **EXHIBIT 6**



## Thad A. Davis

Partner

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PRACTICES  
**Antitrust**

### **Litigation**

- [Antitrust](#)
- [Complex Business Litigation](#)
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- [Securities Enforcement](#)
- [Securities Litigation](#)

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### **Practice**

### [Related Publications](#)

Thad A. Davis, a partner in the San Francisco office, is a trial lawyer with a national practice of court trials, arbitrations and appeals in complex business, regulatory and white collar litigation matters. His expertise includes antitrust, class actions, securities, corporate governance and control disputes, merger and acquisition matters, and related regulatory litigation. He regularly represents public companies, leading venture capital and private equity firms, portfolio companies, hedge funds, directors and officers, and high net worth individuals in a variety of complex commercial disputes and government investigations. His business and matters have been recognized and covered by leading national and international publications, and he speaks and publishes widely on issues of key importance to clients and colleagues.

### **Courtroom Experience**

- Thad is 11-1 in a recent two-year period in court trials, arbitrations and evidentiary injunction proceedings, with one loss reversed on appeal
- He has tried cases in nearly every major metropolitan area, including state and federal courts, across the country
- Over two dozen trials and arbitrations to verdict in his career
- Undefeated in nearly a dozen appellate arguments in state and federal courts
- As defense counsel, has defeated mid-nine figure claim at trial
- As plaintiff counsel, has secured two eight-figure verdicts, and one nine-figure verdict

### **Securities Litigation/ Corporate Governance**

- In the *Countrywide Securities Litigation* (New York Funds case), counsel for one of only two defendants dismissed at summary judgment phase before settlement of matter for high nine figures
- Litigated to successful resolution post-trial one of the most noteworthy Delaware corporate governance matters of recent memory, *Kurz v. Holbrook et al.*
- Secured denial of injunctive relief, dismissal of most prominent merger-related litigations throughout California over the past two years, from Orange County to Santa Barbara to San Mateo to San Francisco
- Thad has worked on the most pressing financial and securities law issues facing clients, including stock options backdating, revenue recognition and accounting matters, executive compensation issues, and board oversight. In addition to counseling public companies, outside directors and individual officers in securities fraud, shareholder class and derivative actions, Thad has represented accountants and auditors.

### **Antitrust, Consumer and Trade Secret Matters**

- Took over before trial, five years into case, and secured summary judgment – after prior denial of summary adjudication -- in alleged monopolization case against major national health care system
- Secured complete dismissal of consumer class action involving alleged spam texting of over one billion messages
- Successfully dismissed price fixing class action against leading foreign electronics manufacturer
- Currently defending multiple FTC and DOJ investigations into allegations of price fixing, attempted monopolization, and unfair trade practices

- Representing foreign winemaker in 17200 class action
- Representing plaintiff in predatory pricing action in energy industry
- Representing leading game maker in various antitrust and consumer privacy related issues
- Regularly represent startup enterprises and established companies in allegations related to employee raiding, trade secrets and related disputes

#### **Regulatory Representations**

- Recently successfully represented three issuers in SEC insider trading investigations
- Conducted FCPA diligence and investigations touching on every major region of the globe, including on the ground investigative work
- Regularly conduct FCPA diligence and investigations in pharma, life science, and medical device industries
- Representing multiple officers of major European financial institutions in regulatory matters

#### **Other Representative Matters**

- Won complete defense verdict after 10-day arbitration, representing several leading venture capital firms in dispute related to alleged fraud in venture investment.
- As first chair, defeated all claims in Internet media contract dispute.
- First-chaired three-week arbitration for claimant asserting fraud and related claims arising out of a stock compensation agreement in a public specialty retail company; secured eight-figure award in case where respondent claimed client owed zero.
- As lead attorney, successfully represented former General Counsel of prominent international financial institution in DOJ investigation.
- Settled on the eve of trial, leading stock option backdating matter for outside directors of Silicon Valley analog device maker.
- As lead counsel before the SEC, successfully represented Internet company in informal inquiry related to stock price collapse.
- Secured no penalty settlement from the SEC for Silicon Valley company in stock option backdating and disclosure matter.
- As first chair, obtained complete injunction in trademark, cybersquatting and antitrust action for leading automobile finance provider.
- As lead counsel for Internet advertising company, negotiated complete dismissal of employee raiding and trade secret claims.
- As lead counsel for business partner-distributor of prominent computer chip maker under SEC and DOJ investigation, secured dismissal of all shareholder claims of alleged channel stuffing.
- As lead counsel to video technology company in accounting restatement, audit committee investigation, SEC investigation, and shareholder class and derivative actions, secured no action letter from staff and settled shareholder actions on eve of trial.
- Company counsel in special committee investigation of leading consumer electronics company's stock option practices.
- As counsel to venture capital firms, dismissed bulk of claims and removed amended complaint to federal court in litigation involving a premier web-based consumer reviews platform; matter then confidentially resolved.
- As lead counsel to an officer of a brokerage and financial services firm, settled on highly favorable terms in the first mutual fund late trading/market timing SEC enforcement action to approach trial.
- As lead counsel to one of the Big Four accounting firms, secured dismissal and affirmance on appeal of two securities class actions involving issuer, a global pharmaceutical company.
- Company counsel to a worldwide digital circuit leader in eight-month special committee investigation, and in follow-on regulatory proceedings in stock option backdating matter; counsel to directors and officers in shareholder derivative suits.
- Company counsel to one of the world's largest media and entertainment conglomerates in the investigation of "roundtrip" and barter accounting practices, and in securities litigation involving an online real estate listings company; matter dismissed twice at district court, and dismissal affirmed by Ninth Circuit.
- As lead counsel representing one of the major units of a multinational American technology and services conglomerate in proposed merger litigation arising out of accounting restatement related to revenue recognition practices at largest software supplier to health care industry; all matters dismissed.
- Company counsel to a market leader of electronic payment solutions in six-month audit committee investigation, follow-on accounting restatement, and shareholder and SEC proceedings.
- Company counsel to creator of video processing solutions in year-long audit committee investigation, accounting restatement, and SEC and shareholder actions. SEC matter resolved with recommendation of no enforcement action from SEC Staff.

- Lead counsel to the Chairman and CEO of an Internet marketing company, parent company of a social networking website, in five-month audit committee investigation, the subsequent SEC and shareholder litigation, and in NY Attorney General's "spyware" investigation. SEC matter resolved with recommendation of no enforcement action from SEC Staff.
- Counsel to the Chairman and founder of the leading provider of "spend management solutions" in internal investigation of accounting practices, and in the subsequent SEC and shareholder litigations; no SEC enforcement action taken.
- Representing largest provider of home satellite television service in the United States. Secured complete dismissal of shareholder actions arising out of failed merger that would have created the nation's largest pay-television service.
- As counsel to directors in Liquidating Trust Litigation involving major producer of value-added paper products, secured complete dismissal of all claims, affirmed by Ninth Circuit and U.S. Supreme Court.

#### Honors & Awards

- San Francisco Inn of Court (elected 2010)
- Northern California *Super Lawyers* (2009-2010)
- Southern California *Super Lawyers* (2009)
- *Super Lawyers* - Corporate Counsel Edition (2009)
- Southern California *Super Lawyers* - Rising Star (2004-2008)

#### Publications

- Thad Davis, Michelle Behrens, "Theoretical Impact and Practical Effect of 'Morrison'," *The Recorder*, August 2010
- Thad Davis, Kevin Dowell, "Viewpoint: Legislation Necessary to Enact True Financial Reform," *The Recorder*, July 2010
- Thad Davis, Mary Kelly Persyn, Ashwini Jayaratnam, "Analysis of New SEC Measures to Foster Individual Cooperation: The Devil's in the Details?" *Securities Law360*, October 2009
- "[A Three-Year 'Look Back' at Backdating - Scandal, Recovery and Deterrence - What Backdating Can Teach Us About the Current Enforcement Climate](#)," *Bloomberg Law Reports - Risk & Compliance*, September 2009
- Thad Davis, Rachel Kent, "Green Law: Strings Attached," *Law Technology News*, August 2009
- Thad Davis, Rachel Kent, "[Greenbacks for Green Projects](#)," *The Recorder*, July 2009
- "[Demand Futility in a Down Economy](#)," *Securities Law360*, June 2009
- Thad Davis, Sarah Zenewicz, "[Healthy Competition](#)," *Daily Journal*, June 2009
- Thad Davis, Michael Li-Ming Wong, "[Cooperation or Capitulation?: Forecasting DOJ and SEC Enforcement Efforts in 2009](#)," *Bloomberg Law Reports*, March 2009
- "[Shareholders Can Sue Over Faulty Advice Under 'Delaware Carve-Out'](#)," Ropes & Gray LLP Alert, February 2009
- "[Tomorrow's SEC](#)," *Securities Law360*, February 2009
- "[Delaware Court Holds that Required Shareholder Vote Cannot Ratify a Challenged Board Decision; Officers Owe Same Fiduciary Duties as Directors](#)," Ropes & Gray LLP Alert, February 2009
- "Stock Options Practices: The Scope and 'Timing' of Liability," 12/1/06 Emp. Benefit Plan Rev, 5, 2006 WLNR 21155252
- "Stock Options Backdating: What Matters?" *Business Litigation Report*, October 2006
- "Stock Options Practices: The Scope and 'Timing' of Liability," *Business Litigation Report*, September 2006
- "Delaware Chancery Court Ruling Regarding Director Independence -- and Other Trends in Delaware Law," *Business Litigation Report*, August 2003
- "Document Retention Under Sarbanes-Oxley: Putting the New Law in Context," *Daily Journal*, July 2003
- "What Every Corporate Counsel Must Know About Corporate Criminal Liability in Light of New DOJ Guidelines," *Business Litigation Report*, June 2003
- "Corporate Governance Reform in the United States and Its Implications for Foreign Companies," *Business Litigation Report*, June 2003
- "A New Model of Securities Law Enforcement," 32 *CuMB. L. Rev.* 69 (2001)
- "TXO Production Corp. v. Alliance Resources Corp.," 107 *Harvard Law Review* 185 (1993)
- "Traditional Mechanisms of Response to Domestic Violence," 106 *Harvard Law Review* 1505 (1993)

#### Presentations & Speeches

- Panelist, "Ponzi Tsunami," Golden Gate University, San Francisco, California (August 2009)

#### **Selected Media**

- In *Ignites*, Thad Davis sizes up regulators' response to public pressure for crackdown, July 29, 2009
- [The Recorder covers arrival of Thad Davis at Ropes & Gray](#), December 4, 2008

#### **Professional & Civic Activities**

- Board of Directors, San Francisco Shakespeare Festival
- Harvard Alumni Association; Reunion Gift Committee
- Commonwealth Club of San Francisco
- Vanderbilt Alumni Association, San Francisco Chapter

#### **Memberships & Affiliations**

- American Bar Association, Committees on Antitrust, Homeland Security, Litigation, Trial Practice, and White Collar; Steering Committee of Northern California White Collar Subcommittee
- Bar Association of San Francisco

#### **Bar Admissions**

- California
- New York
- District of Columbia, 1997

#### **Courts**

- U.S. Court of Appeals for the 7th Circuit
- U.S. Court of Appeals for the 9th Circuit
- U.S. District Court for the Central District of California
- U.S. District Court for the Eastern District of California
- U.S. District Court for the Northern District of California
- U.S. District Court for the Southern District of California
- U.S. District Court for the District of Columbia
- U.S. District Court for the Eastern District of New York
- U.S. District Court for the Southern District of New York

#### **Clerkships**

- Honorable Laurence H. Silberman, U.S. Court of Appeals for the District of Columbia Circuit

#### **Education**

- 1994, J.D., *magna cum laude*, Harvard Law School; Editor, *Harvard Law Review* (1992-1994)
- 1991, B.A., *summa cum laude*, Vanderbilt University