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Areas of Practice

Alternative Dispute
Resolution

Commercial Litigation,
Insolvency & Creditors'
Rights

Complex Litigation

Distressed Real Estate
Litigation & Restructuring

Insurance & Reinsurance

Insurance Coverage & Bad
Faith

Litigation

Professional Liability

Securities Litigation &
Enforcement

Education

University of California,
Hastings College of Law
J.D., *cum laude*, 1982,
Editor, *Hastings Law Journal*

Stanford University, B.A.,
with distinction, 1977

Bar & Court Admissions

California

US District Courts for
Central, Southern and
Northern Districts of
California

Michael McNamara

Michael McNamara is a partner in the Century City office of Steptoe & Johnson LLP, where he is a member of the Litigation Department. Mr. McNamara also serves as Practice Group Leader of the firm’s Professional Liability and Legal Malpractice Defense group.

Mr. McNamara is a senior trial attorney with 28 years of experience handling a wide range of litigation matters, including complex business disputes, professional liability, securities, insurance, antitrust, employment, entertainment, environmental, and many other areas in a variety of forums, including state and federal courts, arbitrations, administrative proceedings, and mediations. Mr. McNamara also has significant “first chair” trial experience. For 16 years prior to joining Steptoe & Johnson LLP, Mr. McNamara was the founding and senior managing partner of McNamara, Spira & Smith, a litigation boutique in Los Angeles. Prior to founding his own firm, Mr. McNamara was a partner in the Los Angeles office of a prominent international law firm.

Noteworthy

- *Southern California Super Lawyers*, General Litigation, 2011–2012
- Extern, Honorable Frank Richardson, Associate Justice of the California Supreme Court, 1981–1982

Representative Matters

- Co-tried a case in federal court where he won a jury verdict for fraud in the amount of \$122 million dollars (including \$77 million compensatory, \$16 million pre-judgment interest and \$29 million punitive damages) for a German public company in the business of licensing the foreign distribution rights to major motion pictures. This verdict was listed in the Los Angeles Daily Journal as the 3rd largest verdict in California in 2004 and was listed in VerdictSearch.com as the 9th largest verdict in the United States in 2004.
- Served as lead trial counsel in an arbitration resulting in a \$40 million award for a client in the real estate industry. The arbitration involved a dispute over the amount owed under an “earn-out” provision in a purchase agreement. This arbitration was brought after the defendant asserted that it only owed \$200,000. Following the arbitral award, the defendant unsuccessfully tried to challenge the award and was ultimately forced to fully pay the \$40 million award.

US Court of Appeals for
Ninth Circuit

Michael McNamara

- Served as lead trial counsel for a large national law firm in defense of malpractice, breach of fiduciary duty, and civil RICO in federal court. After formally invoking Rule 11, plaintiff's counsel agreed to voluntarily dismiss our client without the payment of any consideration.
- Served as lead trial counsel for the former director of a large international investment banking firm in the successful defense of claims brought by a competing investment banking firm in an arbitration before a panel of the New York Stock Exchange. Plaintiff had accused Mr. McNamara's client of stealing business and clients when he left one bank to join a competing firm. After a one week arbitral hearing, the matter was resolved based on the full reimbursement of the attorney fees for Mr. McNamara's client.
- Served as lead counsel for a large publicly traded company in defense of securities and derivative claims pending in the Los Angeles Superior Court. The complaint alleged that the defendants defrauded plaintiff by failing to properly disclose facts relating to certain mortgage backed securities on its balance sheet. When the housing bubble burst in 2008, the company's stock price fell with the value of the assets on the company's balance sheet. This litigation was filed in 2008. The derivative claims pending in Los Angeles were ultimately dismissed in October 2010 for no consideration, while plaintiff's direct claims were settled for approximately the same amount the plaintiff would have received if he had not opted out of a related class action settlement
- Served as lead trial counsel for Plaintiff winning a \$5.6 million jury verdict in a "palimony" action brought under the principles of *Marvin v. Marvin* (1976) 18 Cal.3d 660. This action was closely watched as one of the few cases brought under Marvin to actually go to trial.
- Served as lead trial counsel in litigation involving a contractual dispute over the exclusive rights to the next generation of certain renewable energy products in the North American market. This segment of the renewable energy industry is rapidly growing and was projected by the parties to be growing to over \$300 million in the next several years. The case settled on the proverbial court house steps on the first day of trial, with Mr. McNamara's client gaining the immediate and exclusive rights to the products at issue.

Michael McNamara

- Served as lead trial counsel for a public company in defense of an action for breach of contract, wrongful termination, constructive discharge, and fraud. After moving successfully to dismiss the tort claims and to bifurcate and try the equitable defense issues by the court before a jury trial, the action settled for a nominal amount after a one week bench trial before the Los Angeles Superior Court.
- Served as lead trial counsel in a case where he won a verdict of \$6.65 million (including \$5 million in punitive damages) from a state court jury in a case involving a dispute arising from the cancellation of a life insurance policy.
- Served as lead trial counsel for a former partner of a large national law firm in defense of a malpractice/partnership dispute in the Los Angeles Superior Court. On the first day of trial, after granting our motion in limine to strike plaintiff's damages expert and related proof of damages, the Court ordered the dismissal of the complaint. The action was settled on appeal, with the plaintiff paying a significant amount of defendants' costs.
- Defended a retailer in a vertical price fixing case brought as a class action under the California Cartwright Act and Unfair Competition Law (Section 17200). The action was dismissed, without leave to amend, at the demurrer stage. In a published opinion, the Court of Appeal "affirmed in full" in an opinion establishing new law with respect to (i) the interplay between California's antitrust law and unfair competition law, and (ii) the extent of the "safe harbor" available under Section 17200 where conduct is otherwise protected under the Colgate Doctrine. For reported opinion: *Chavez v. Whirlpool*, 93 Cal. App. 4th 363 (2002).
- Served as lead trial counsel for a privately owned real estate developer in an action brought by one of its former members for a "buy out" of his "partnership" interest pursuant to Section 16701 of the California Corporations Code. Following an appraisal, Mr. McNamara won an arbitration enforcing the appraisal against the former partner.
- Represented a national underwriter and administrator of extended service warranties for home appliances and computers in defense of a putative class action brought in federal court under California's Unfair Competition Law. After defeating class certification, the remaining individual action was settled for a nominal amount.

Michael McNamara

- Served as lead counsel for the former CFO of Asia Global Crossing in defense of several securities class actions. This litigation was transferred by the Federal Multi-District Litigation Panel to the United States District Court for the Southern District of New York, where more than 50 federal securities class actions were pending against Global Crossing and Asia Global Crossing. Mr. McNamara's role ended in November 2004, when the Court approved a settlement of the securities class actions.
- Served as lead counsel in a case where he won a \$4 million judgment in favor of his client, a publicly traded company in the hauling industry. Following the entry of judgment, defendant filed for bankruptcy protection and Mr. McNamara's client purchased the defendant out of bankruptcy. As of today, the defendant's former business is a successful division of Mr. McNamara's client's successor-in-interest.
- Served as lead counsel for a foreign automobile manufacturer in an arbitration with a major studio over product placement issues. The action settled on favorable terms before the final arbitral hearing.
- Served as lead counsel for a large public company in the hotel industry in a case where a local hotel owner sought to enforce an area restriction provision in a management agreement. The plaintiff claimed that a merger with a large competing hotel brand resulted in a violation of the area restriction, as it resulted in several newly affiliated brands of hotels within a block of the plaintiff's hotel. This action was settled on favorable terms just prior to trial.
- Served as lead counsel for the Visiting Nurse Service in defense of a wrongful death action challenging the religious practices of Christian Scientists. After winning the case by motion, the Fourth Appellate District affirmed the dismissal in favor of our clients. For reported decision: *Quigley v. First Church of Christ, Scientist, and Christian Science Visiting Nurse Service in Los Angeles County, Inc.*, 65 Cal. App. 4th 1027 (1998).
- Served as lead counsel defending the Chairman and CEO of a public company in defense of a securities class action which was pending in federal court in Tucson, Arizona. After winning dismissal of the state law claims, the alleged class window was narrowed, which allowed the action to settle on favorable terms that were ultimately approved by the Court.

Michael McNamara

- Served as lead counsel for a large national law firm in defense of claims by a “client” against a partner for sexual assault and battery in the Los Angeles Superior Court. This action was won by a motion to dismiss based upon proof of the plaintiff’s pre-litigation attempts to extort payments from the attorney.
- Served as civil counsel for an indicted former partner of KPMG in the criminal action in the Southern District of New York based upon the Court’s ancillary jurisdiction over related civil claims. After the Circuit Court reversed the trial court’s assertion of ancillary civil jurisdiction, all related civil claims were successfully resolved in a different forum based upon a confidential settlement.
- Served as lead counsel for a former partner of a large national accounting firm in defense of malpractice and fraud claims in the Los Angeles Superior Court. This action was successfully settled on the eve of trial.
- Served as lead counsel for a former partner of a large accounting firm in defense of claims for fraud and malpractice brought by a former client involving alleged “tax shelters.” All claims were dismissed “with prejudice” by the San Francisco Superior Court.
- Served as lead counsel for former members of an acquired company in defense of an action brought for fraud in connection with the sale of the business. The assignee/subrogee of the buyer claimed that the buyer was fraudulently induced based upon the alleged failure to fully disclose all material facts during the due diligence period prior to the close of the acquisition. All claims were dismissed when summary judgment was granted resulting in the dismissal of all claims in favor of Mr. McNamara’s client.
- Served as lead counsel for a large public company involved in two lawsuits arising from a dissolved “partnership” to develop a waste-by-rail landfill located in Imperial County, California. Phase I of the litigation against the landowner was favorably settled on the first day of trial. Phase II of the litigation against the transportation provider was settled on favorable terms just prior to trial.
- Served as counsel for the subsidiary of a large public company in defense of claims for environmental contamination arising from a green waste program. After winning summary judgment, the Court of Appeal issued its opinion affirming in full the summary judgment. *PNL v. Waste Management*, 2004 WL 2320349 (Cal.App.4th Dist.) (unpublished opinion).

Michael McNamara

- Served as counsel for a famous local hotel in defense of a consumer representative action brought under California's unfair competition law (Section 17200 of Business and Professions Code) concerning parking valet services. After winning summary judgment, the Court of Appeal affirmed the dismissal. *Riley v. Hilton*, (unpublished opinion in B172825 by Division 4, 2nd Appellate District, filed June 1, 2005).
- Served as counsel for a large public company in a shareholder derivative action which was brought following the company's write-off of approximately \$2.7 billion. After a motion to dismiss was granted by the Los Angeles Superior Court, we also defended the company in a separate federal derivative action, which was filed after the state derivative action was dismissed. Both the state and federal derivative actions were dismissed based upon a favorable settlement.
- Served as litigation counsel for a trading card company in defense of patent infringement claims. This was one of ten related patent cases. We won summary judgment for the client based upon plaintiff's lack of standing. Thereafter, a new licensee of the patents at issue brought a new action against the client. After the federal court granted our motion dismissing this second action, the Federal Circuit reversed and remanded the action, which was later settled on favorable terms for our client.
- Served as counsel for a publicly owned insurance company in a shareholder derivative action brought after the insurer faced approximately \$1 billion of claims after an earthquake, when the insurer only had \$200 million of reinsurance for those claims. The action was settled on favorable terms.
- Served as lead counsel for the President and 25% shareholder of privately held company in prosecution of derivative and individual actions against controlling shareholders/board members. This action was settled based upon the sale of our client's stock in a transaction valued at approximately \$6 million.
- Served as lead counsel for a minority shareholder (30% owner) of a privately held company who was wrongfully ousted by the controlling majority shareholder (70% owner). This dispute was settled at mediation in a settlement valued at approximately \$3 million.

Michael McNamara

- Served as lead counsel for the president of a large privately owned perfume maker in defense of a lawsuit for fraud. After prevailing at the trial court level on a motion to dismiss based upon lack of personal jurisdiction, Mr. McNamara also prevailed on appeal before the California Court of Appeal. *Hayman v. Florasynth, Inc. and Jack Friedman*, (unpublished opinion in B094173 in Div. 1, 2nd App. Dist.)
- Served as lead counsel for a public company in defense of a "public policy" wrongful termination suit brought by a former employee of a subsidiary bank. The action settled on favorable terms on appeal, after we won summary judgment for our client. We were also able to obtain full reimbursement of all attorneys' fees and costs for our client.
- Served as lead trial counsel for a minority shareholder and employee of closely held corporation in the gazebo business in an arbitration to determine value of his shares and other "wrongful termination" claims. The case was resolved on a confidential basis after a two day trial before a panel of arbitrators.
- Served as lead trial counsel for the creator of the idea for a psychic television program against the producer of a similar show on network television. The claim against the producer for misappropriation of the idea for the show settled on the first day of trial for \$580,000.00.
- Served as lead trial counsel for a post-production company, which claimed that its tenant had violated a non-compete provision in its lease. Mr. McNamara's client was awarded \$575,000.00 in damages at a bench trial before a judge pro tem.
- Represented an insurer in defense of an ERISA action. After winning summary judgment, Mr. McNamara argued the case before the Ninth Circuit where the judgment was affirmed in full. For published opinion: *Moran v. Aetna*, 872 F. 2d 296 (9th Cir.).

Professional Affiliations

Member, American Bar Association's Lawyer's Professional Liability Consortium, 2011

Member, Professional Responsibility and Ethics Committee (PREC), Los Angeles County Bar Association, 2011

Member, Association of Professional Responsibility Lawyers (APRL)

Member, Board of Governors, Association of Business Trial Lawyers, 2010

Michael McNamara

Member, American Bar Association, Litigation Section