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# DANIEL MCKENZIE

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## ABOUT

Dan has been a civil litigator for ten years, with extensive experience handling various types of complex litigation. His practice areas include personal injury (catastrophic and soft tissue), construction defect (representing plaintiffs, general contractors, subcontractors, and design professionals), business litigation, and collections. Dan has handled all facets of pre-trial litigation, including countless different kinds of law and motion work. He has also taken and defended hundreds of all sorts of depositions, ranging from fact witnesses to treating physicians to medical, construction, and other experts. He has also participated in several successful trials, and is highly experienced in handling post-trial motions and appeals.

While Dan's work for the last eight years has been primarily defense-oriented, he worked for a plaintiff's side personal injury firm for the first year and a half of his legal career. During that time, he learned the ins and outs of personal injury litigation from a plaintiff's perspective. He uses this experience on both sides of the aisle to help him craft the best possible course of action to address whatever issues arise during the course of litigation.

Dan prides himself on working with his clients to understand their goals, and preparing a realistic plan to achieve them. This process includes an honest assessment of the strengths and weaknesses of each client's case, and the risks, rewards, and likely costs of the client's various options. He then works tirelessly to execute the plan.

### Representative Matters

- Personal Injury Defense (Defense Verdict) – Dan was 2nd chair for a jury trial for a Kern County (Bakersfield) case regarding construction site injury caused by trench cave-in which buried Plaintiff alive and nearly killed him. Our clients, a third-party excavation company and its excavator operator, were responsible for digging the trench. Plaintiff's employer supplied the crew that was to install a sewer line inside of the trench. Plaintiff sustained catastrophic and permanent injuries including a shattered pelvis and severed urethra. The pelvic injury required permanent installation of metal screws and plates to hold the pelvis together, and Plaintiff alleged ongoing pain and limited range-of-motion. The severed urethra required months of catheterization, and while it was ultimately repaired, Plaintiff alleged permanent issues with incontinence and sexual dysfunction. Plaintiff also alleged severe PTSD, as well as injuries to his left shoulder, knee, and ankle. Plaintiff alleged our clients were negligent for a variety of reasons, including failure to train employees, various alleged OSHA violations, and allegedly causing the trench to cave-in due to proximity of the excavator to the trench. Our clients denied all liability, and alleged that Plaintiff and/or his employer were the cause of the accident because Plaintiff got into the trench before he was supposed to, and



4100 Newport Place Drive  
Suite 840

Newport Beach, CA 92660

☎ (949) 226-7040

📠 fax: (949) 226-7150

📖 DIRECTIONS

✉ dmckenzie@mvjllp.com

before our client could install a trench shield. Plaintiff's last settlement demand was \$15 million. Our clients offered \$1.5 million. After a 2+ week jury trial, the jury returned a total defense verdict after less than 2.5 hours of deliberations, finding our clients not negligent.

- Business Litigation – Plaintiff was a partner of Defendant in a restaurant venture which went sour. Dan worked on the team representing Defendant. Plaintiff sued Defendant, seeking hundreds of thousands of dollars in alleged damages. Prior to trial, Defendant offered Plaintiff \$30,000. Plaintiff demanded \$150,000. After a two-week trial, Defendant (through its cross-complaint) was awarded approximately \$1,500 in damages. Because Plaintiff failed to recover more than the \$30,000 he had been offered before trial, Defendant was also awarded approximately \$230,000 in attorneys' fees after trial. Dan participated in all aspects of this case, including pre-trial discovery, depositions, fact and expert witness preparation, exhibit preparation, motions in limine, trial examination, and post-trial motions.
- Nuisance Defense – Plaintiff, an automobile parts seller and service provider, sued Dan's client, a large well-known builder for alleged nuisance in connection with the construction of an apartment complex with over 150 units. Plaintiff alleged that dust, dirt, debris, and noise interrupted its business for a period of over 2 years, and even sought punitive damages. Plaintiff demanded \$800,000 to settle the matter prior to litigation. After the complaint was filed, Dan conducted written discovery, took over 15 depositions of various fact and expert witnesses, and also defended his client's employees and expert witness depositions. Dan also worked on all aspects of the trial. Prior to trial, Dan's client offered \$50,000. After two weeks of trial, Plaintiff was awarded a verdict of approximately \$37,000. Because Plaintiff failed to best the \$50,000 offer, Plaintiff faced the prospect of paying the builder's post-offer expert fees and costs, and in turn agreed to settle the matter for \$5,000.
- Construction Defect (Plaintiff's Side) – Dan participated in all aspects of the prosecution of construction defect claims brought by the same client in connection with two separate large commercial properties. The defects implicated the general contractor as well as virtually all of the subcontractors who had performed the work, in addition to the soils engineer. These cases were successfully resolved for the client prior to trial for a combined amount in excess of \$6 million.
- Personal Injury (Plaintiff's Side) – Plaintiff client was in permanent vegetative state as a result of auto v. auto collision with driver under the influence of drugs and alcohol. Evidence showed that Defendant may have purchased drugs from workers at the establishment where he had been prior to the accident, but did not otherwise implicate the establishment. Facing a shortage of available funds to pay for the client's very high damages, Dan researched and crafted an argument for liability against the establishment on the basis of the little known Drug Dealer Liability Act. This resulted in the establishment paying a seven-figure policy limit settlement.

## EDUCATION

UCLA School of Law, J.D., 2006

Santa Clara University, B.S., magna cum laude, 2003

## ADMISSIONS

State Bar of California

U.S. District Court Central, District of California

U.S. District Court of Appeals, Ninth Circuit

## ORGANIZATIONS

Orange County Bar Association

Los Angeles County District Attorney

Entertainment Law Review, Managing Editor