



### Mark E. McKeen

#### Partner

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Mark E. McKeen concentrates on complex commercial and real estate litigation and trial/arbitration practice, with emphasis in real property law, corporate, partnership and transactional disputes, business torts, unfair competition, intellectual property, environmental claims, and bankruptcy proceedings. He is co-chair of DLA Piper's national Real Estate Litigation Practice, and the former litigation chair of the San Francisco office of a major national law firm.

Mark has substantial experience in the representation of emerging growth technology companies, publicly held companies and general and limited partnerships. He has litigated federal and state court cases throughout California, as well as in Washington, Texas, New Mexico, Florida, New York, Colorado, Arizona, North Carolina and Puerto Rico.

#### RELATED SERVICES

- Litigation, Arbitration and Investigations

#### EXPERIENCE

#### REPRESENTATIVE MATTERS

- A national/international client in a six-week JAMS arbitration in San Francisco in which the plaintiffs alleged contract and consequential damages exceeding US\$45 million arising out of the parties' complex real estate/commercial transaction. The JAMS arbitrator ultimately awarded no damages to the plaintiffs and awarded the client damages and "prevailing party" attorneys' fees in an amount exceeding US\$5 million
- A large investment and real estate partnership in a six-week trial in Sonoma County Superior Court in which the plaintiff alleged contract and tort damages exceeding US\$30 million arising out of option and JV agreements. The court awarded a full defense judgment and awarded attorneys' fees and costs to our client as the prevailing party, a judgment upheld in its entirety by the California Court of Appeal, First Appellate District, along with additional appellate fees and costs awarded to the client
- A Bay Area technology client in an eight-week AAA arbitration in San Francisco in which the plaintiff alleged contract and tort damages exceeding US\$75 million arising out of the parties' exclusive marketing and distribution agreement. The AAA panel awarded the plaintiff damages of only \$1
- A Bay Area technology client, as a plaintiff, against its primary competitor in multistate trade secret and intellectual property litigation proceedings, involving more than ten lawsuits filed in federal and states courts, including ITC proceedings. At the

conclusion of the litigation, our client fully prevailed and its competitor's business was shut down

- A major national client, as a plaintiff, in a trial victory in San Francisco County Superior Court arising from claims for breach of complex guaranties of underlying real estate agreements. Along with damages, the court awarded attorneys' fees and costs to the client as the prevailing party, a judgment upheld in its entirety by the California Court of Appeal, First Appellate District and the California Supreme Court, along with additional appellate fees and costs awarded to the client
- A California real estate and development partnership in a two-week JAMS arbitration in San Francisco involving contractual rights over international real property, in which the client was awarded a full declaratory relief judgment in its favor valued in the millions of dollars
- A national real estate joint venture client in a trial victory in Bankruptcy Court in Oakland involving a motion for relief from stay to pursue legal remedies on real and personal property in San Francisco adjacent to the new Transbay Terminal project, in which the client fully prevailed and thereafter defeated emergency motions to stay such favorable trial ruling at the Bankruptcy Court and Ninth Circuit Bankruptcy Appellate Panel levels pending appeal
- A major national bank in a jury trial victory, as a plaintiff, in San Francisco County Superior Court arising from claims for conversion, common counts and breach of contract – third-party beneficiary, in which the client was awarded all damages requested at trial. This jury verdict was recently upheld in its entirety by the California Court of Appeal, First Appellate District, along with appellate costs awarded to the client
- A major national client in a trial victory, as a plaintiff, in Solano County Superior Court arising from claimed breach of contract of commercial/real estate agreements, in which the plaintiff was awarded attorneys' fees and costs as the prevailing party
- A large California client in a trial victory in Contra Costa County Superior Court arising from allegations of breach of contract and business tort claims
- A national real estate investment client in an action filed in Contra Costa County Superior Court regarding the termination of a US\$20 million real property purchase and sale agreement. After the court granted two summary judgment motions in the client's favor (as the plaintiff), our client was awarded all of its requested damages as well as attorneys' fees and costs as the prevailing party
- A large national technology client in consolidated actions in Alameda County Superior Court and Santa Clara County Superior Court against the plaintiff's multimillion-dollar claims for breach of contract and business torts. The case settled favorably following the court's ruling on the parties' cross-motions for summary judgment
- A major international technology client in San Francisco County Superior Court against the plaintiff's multimillion-dollar claims for unfair competition and business torts arising from allegedly false printer speeds advertised to consumers. The case settled favorably prior to trial
- A national real estate investment client against declaratory relief claims filed in Solano County Superior Court regarding the enforceability of contracts under California's Subdivision Map Act and recent case law. While the parties' cross-motions for summary judgment were pending, the plaintiff's claims were entirely dismissed without payment of any settlement sums
- A national technology company in federal court in San Francisco against a plaintiff's multimillion-dollar claims alleging breach of contract and business torts arising out of the parties' failed merger agreement. The case settled favorably on the eve of trial
- A national real estate investment client against multimillion-dollar tort claims filed in San Francisco County Superior Court regarding allegations of interference with a contract and the prospective economic advantage arising out of two JV transactions. The case settled favorably on the eve of trial
- A Taiwanese manufacturing client in federal court in Seattle against a plaintiff's multimillion-dollar claims for alleged breach of contract and business torts. The case settled favorable on the eve of trial
- A national biotechnology client in federal court in New Mexico against a plaintiff's multimillion-dollar claims arising from alleged fraudulent statements and non-disclosures related to the parties' asset purchase and license agreements. The case settled favorably on the eve of trial following the dismissal of certain of the plaintiff's claims by summary adjudication
- A national healthcare client in San Francisco County Superior Court against a plaintiff's claims for breach of contract and business torts arising out of the parties' management service agreements. Following motion practice, the plaintiff' claims were entirely dismissed without payment of any settlement sums
- An international technology client in federal court in Florida and Santa Clara County Superior Court against a plaintiff's multimillion-dollar claims for breach of contract and business torts. The case settled favorably following the court's ruling on the parties' cross-motions for summary judgment

- A Washington-based investment firm in federal court in San Francisco against a plaintiff's multimillion-dollar claims for breach of contract and business torts arising out of the parties' asset purchase agreement. Following motion practice, plaintiff's claims were entirely dismissed without payment of any settlement sums
- A national biotechnology client in federal court in San Francisco and Puerto Rico against a plaintiff's claims for breach of contract and business torts arising out of a cross-border distributorship agreement. The case settled favorably pending rulings on motions to dismiss
- An international technology client in Santa Clara County Superior Court against a plaintiff's claims for significant sub-rental profits under the parties' commercial lease agreement. The case settled favorably prior to trial
- A national food processing client in federal court in San Francisco against claims for breach of contract. The case settled favorably prior to trial

## CREDENTIALS

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### Admissions

- California

### Recognitions

Recognized as a 9-time Northern California Super Lawyer in Business Litigation, beginning in 2007

### Education

- J.D., University of California at Los Angeles School of Law 1987
  - Administrative Chair, UCLA Moot Court Board
  - Brief Writer, UCLA National Moot Court Team and California Traynor Team
- B.A., Economics and Political Science, Stanford University 1984