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David McLaughlin is a partner in the Redwood City office and has been with the firm since January 1988. He has a diverse commercial litigation and trial practice which focuses on employment, product liability, intellectual property and real estate matters. He has won numerous jury trials and binding arbitrations, in addition to resolving many cases through mediation.

His practice experience includes counseling employers and executives, product manufacturers and distributors, as well as law firms and their principles, in the areas of product liability, warranty, employment (termination, retaliation, discrimination, harassment, wage and hour), unfair competition, contract, trade secrets, business, intellectual property protection, defamation, fraud, and other matters related to dispute resolution. He is involved in the corporate aspects of commercial strategies and has worked with clients in industries ranging from biotechnology, the Internet and cable television to automotive, real estate and hospitality.

Mr. McLaughlin obtained his B.A. from the University of California, Los Angeles in 1983 and his J.D. from Santa Clara University School of Law in 1987. He is a Fellow of the Litigation Counsel of America.™ He has the highest peer rating (AV®) by Martindale-Hubbell and has been named by Northern California Super Lawyers® magazine. Mr. McLaughlin is also listed in A.M. Best Lawyers in the San Francisco Bay Area and named in Who's Who in American Law.

Mr. McLaughlin was born in Palo Alto, California and is married with three children. He coaches youths in soccer, basketball, baseball and enjoys skiing.

## **REPRESENTATIVE MATTERS**

- Represented famed class action trial lawyer Fred Furth, The Furth Firm, Chalk Hill Estate Vineyard LLC and Chalk Hill Estate Winery LLC in a San Francisco Superior Court lawsuit brought by a terminated Furth associate lawyer. The case arose from an email relating to the Wal-Mart wage and hour class action lawsuit wherein Furth won a \$172 million jury verdict. Furth received \$52.5 million in attorney fees from Wal-Mart. Plaintiff claimed wrongful termination, wrongful discipline, fraud, failure to pay wages, privacy rights violations, violation of Business and Professions Code Section 17200, and that she was entitled to \$5 million from Furth because the email defamed her and ruined her reputation and career. Since she worked on the Wal-Mart case, she claimed entitlement to a bonus in connection with the Wal-Mart jury verdict. Furth cross-complained against

the Plaintiff for repayment of a \$75,000 loan. After a trip to the Court of Appeal from the granting of a Furth Anti-SLAPP Motion, the case settled for \$75,000 to Furth and \$59,000 to Plaintiff.

- Represented a Four Points by Sheraton Hotel and Suites property in South San Francisco. After his stay, a wheel chair bound disabled person sued the hotel for 19 Unruh Act Violations, treble damages/penalties and attorney fees, claiming denial of full and equal access to the facilities. The case settled for \$8,000 with an agreed upon remediation plan.
- A Pharmacology vigilance company CFO had a six month intimate and sexual relationship with a business development subordinate. She sued for sexual harassment. The case resolved for a nominal amount the day before Plaintiff's deposition. The case was venued in United States District Court, Northern District.
- Represented Mission Ranch, Inc., a Carmel, California hotel and resort, in an action filed by a housekeeper for wrongful termination in violation of public policy and retaliation, in Monterey County Superior Court. The same housekeeper also filed a Labor Commission action alleging unpaid meal and rest premiums and waiting time penalties. After a two day trial with fifteen witnesses, the Labor Commission found in favor of the client and awarded the housekeeper nothing for her meal and rest period claims. Thereafter, the housekeeper sought a waiver of costs to dismiss the Superior Court claim and the client refused this demand. The housekeeper dismissed the claim in any event and the Monterey County Superior Court entered a cost Judgment in favor of the client and against the housekeeper.
- Represented Mission Ranch, Inc., in a wrongful termination and retaliation case arising from the termination of a restaurant server. The Monterey County Superior Court granted Mission Ranch's Summary Judgment Motion. The Court entered a cost judgment in favor of the client.
- Represented a fund administrator for the Northern California Carpenters Union in a disability action before the DFEH. Plaintiff left work with a severe headache and the client terminated her a few days later. Plaintiff had emergency surgery for a brain tumor that proved fatal three months later. The case resolved at a DFEH mediation.
- Represented Major League Baseball Hall of Fame player Willie Mays in an intellectual property matter. A British company cyber squatted on the Internet domain name williemays.com. Filed an action under common law before the World Intellectual Property Organization in Geneva, Switzerland to have the domain name williemays.com transferred to Mr. Mays. The case resolved with a transfer of the williemays.com domain name to Mr. Mays in exchange for two autographed baseballs.
- Represented a records management storage company in an action for disability discrimination filed by a deaf employee. After the employer terminated the employee, the employee filed a DFEH claim for failure to accommodate, disability discrimination and wrongful termination. We resolved the claim for \$9,000.
- Represented a nationally recognized plaintiff's personal injury law firm in a wrongful termination, defamation and privacy rights violation action brought by a terminated associate attorney. San Mateo County Superior Court granted an Anti-SLAPP special Motion to Strike portions of the complaint. Filed a motion for attorneys fees as the prevailing party on the anti-SLAPP Motion to Strike. The case settled for a nominal amount the week before the hearing on this Motion.

- Represented the president of a chain of gyms in Los Angeles County when a operations manager sued him for male on male sexual harassment. The president allegedly made hundreds of lurid, sexual and scatological crank calls. The Plaintiff recorded the calls. The case settled five days before trial in downtown LA Superior Court.
- Represented Bridgestone Americas Tire Operations LLC in a death and catastrophic injury case involving two coordinated cases and six plaintiffs. The El Dorado County Superior Court case involved a tire failure at high speed on a two lane highway that resulted in a head on collision. One driver was killed instantly. The case settled at a mediation.
- Represented an employment services company in a pregnancy discrimination case. Plaintiff was a superstar employee who announced that she was pregnant. Two weeks later, she was placed on 30 days probation for production reasons and then was terminated near the end of the probation period. The case resolved at mediation.
- Represented Club Trinidad Resorts in Palm Springs when an African American employee claimed unpaid overtime wages, meals and rest period premiums, expense mileage reimbursement, unpaid wages, paycheck record violations and waiting time penalties. The case settled for a nominal amount at mediation.
- Represented Optimal Technologies International, Inc., a Barbados company now known as GRIDiant, in an employment case. OTII/GRIDiant specializes in smart electric grid management and optimization software. The case arose from an employment contract with a \$300,000 severance provision entered into by the CEO with his girlfriend, the Vice President of Marketing. The investor (Goldman Sachs) and other officers did not have knowledge and did not consent to the contract. After OTII terminated the CEO and his girlfriend, she sued for the severance, unpaid benefits and vacation pay. The case resolved at mediation.
- Represented an automobile club against age discrimination claims involving five employees. The case settled at mediation.
- Represented a Pacifica beach house owner after her neighbor recorded a new survey that placed her home inside the boundaries of the neighbor's survey description. The neighbor sued for encroachment, trespass and nuisance. The case settled in the client's favor with a Grant of Easement and Maintenance Agreement and Mutual Release which restored the land on the client side to the original boundaries, and also granted an ingress/egress easement over the neighbor's land. The outcome substantially reduced the size of the neighbor's parcel due to the prior recording of the survey.
- Represented Bridgestone Firestone entities in numerous tire and tread separation product liability and breach of warranty matters involving severe injuries and deaths.
- Represented Bridgestone Industrial Products America, Inc. in a matter arising from the alleged defective manufacturing of marine fenders installed on a container vessel pier in the Port of Oakland. The 65 huge rubber and steel marine fenders were built according to the Port of Oakland's specifications. The case resolved amicably after a mediation.
- Represented the legendary rock band The Doobie Brothers regarding a dispute with Bill Graham Presents involving sound levels at the Paul Mason Mountain Winery in Saratoga, California. The Doobie Brothers sound engineer and mixer had been banned from working the shows.
- Represented a biotechnology/life sciences company - Applied Biosystems and Applera (now known as Life Technologies, Inc) - in trade secret and copyright protection matters

involving DNA test kits and gene sequencing devices which use polymerase chain reaction (PCR) technology. Quashed numerous subpoenas demanding trade secret and unpublished developmental validation information. The cases were in State and Federal Court in Australia, Canada, Germany, South Africa, California, Colorado, Florida, Illinois, Kansas, Louisiana, Oregon, Minnesota, Missouri, Nevada, New Hampshire, New York, South Carolina, Washington and Washington D.C.

- Assisted with writing the AmpF/STR Identifier PCR Amplification Kit User's Manual for Applied Biosystems.
- Represented a supervisor defendant and a hotel in a sexual harassment and hostile work environment action.
- Represented the employer in a Labor Code section 132(a) matter before the Worker's Compensation Appeals Board. Claimant alleged she was terminated because of a disability arising from a work related injury.
- Represented a non-profit company in a race and sex discrimination claim arising from employment termination.
- Represented a national hotel chain in FEHA and Labor Commission, Department of Industrial Relations, claims for wrongful termination based on race discrimination, and for unpaid vacation pay and overtime wages.
- Advised the president of a multi-billion dollar pharmaceutical company in a disability discrimination and wrongful termination action. The case settled prior to the filing of a lawsuit.
- Represented a car dealership in a wrongful termination action alleging a violation of public policy. Plaintiff claimed to be a whistleblower. The case ended in a successful settlement ten days before trial after a co-employee claimed that the plaintiff sexually assaulted her.
- Constructive termination, sexual harassment and sexual assault case involving independent contractor and judicial estoppel issues.
- Represented the leading national manufactured homes dealer in more than 30 California cases involving claims for product liability, breach of consumer warranties, breach of contract and unfair competition. The trial of two cases in Santa Clara County Superior led to a jury verdict and Judgments in favor of the client. After the Court awarded the client attorney fees in both cases, and the Judgments were pursued, the plaintiffs filed bankruptcy and the serial litigation against the client ceased.
- Represented a large hotel in an action brought by two cooks working in South San Francisco alleging sexual harassment by an independent contractor for a national hotel chain.
- Represented a retired United Airlines pilot sued by his lawyer for fraud, breach of contract and quantum meruit. After a five week jury trial in San Mateo County Superior Court, a jury returned a verdict in favor of the pilot on all claims.
- Represented a San Francisco Peninsula common interest condominium development and its board of directors in a breach of the covenants, conditions and restrictions, breach of contract, strict liability, negligence and nuisance action arising from persistent water infiltration and mold issues. After a four week trial in San Mateo County Superior Court, the jury awarded the plaintiff nothing on all counts against the client. The trial court awarded \$150,000 in attorneys fees to the client and the case resolved with a payment of \$90,000 to the client with an appeal pending.

- Represented a hotel management company in a gender discrimination and wrongful termination case.
- Represented L'Auberge de Sedona Hotel in Sedona, Arizona, in USDC, District of Arizona, in five cases over four years. The cases each settled at early settlement conferences or with a summary judgment motion pending.
- Represented a Los Angeles airport hotel, which was part of a national hotel chain, in an action involving wrongful termination in violation of public policy alleged in the context of Election Code violations, and a Petition for Referendum to repeal a local ordinance pertaining to hotel transient occupancy taxes. After an eleven day deposition of the plaintiff, the case resolved for a nominal amount.
- Represented a product manufacturer in a strict product liability wrongful death lawsuit which settled before trial.
- Represented defendant in an action alleging sexual harassment, hostile work environment and gender discrimination. Case was resolved in successful settlement.
- Represented a national hotel chain in a Superior Court action wherein plaintiff alleged race, age, sex and disability discrimination (FEHA) arising from plaintiff's termination. The case successfully settled for the client.
- Represented a national correction facility treatment provider and operator in a race discrimination, sexual harassment and retaliation case. The case successfully settled prior to trial.
- Represented a resort hotel in a wrongful termination action in violation of public policy alleged by hotel and resort food and beverage director. The matter was resolved and dismissed.
- Represented an Indian health center in a civil rights, discrimination and wrongful termination action involving the Indian Preference Act. The matter was resolved in mediation.
- Represented a national hotel chain wherein a defendant employee demonstrated a fighting move on co-employee plaintiff and fractured his neck. Plaintiff asserted a claim for assault and battery and respondent superior liability against employer alleging that it knew defendant employee had a propensity for violence, and the employer ratified such behavior. Plaintiff claimed that the case fell outside the worker's compensation exclusive remedy (serious and willful allegations eventually were dismissed).

## Practice Areas

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- Business And Commercial Litigation
- Employment
- Employment Litigation and Dispute Resolution
- Product Liability
- Intellectual Property
- Real Estate
- Catastrophic/Personal Injury

## Education

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- University of California, Los Angeles, 1983 B.A.
- Santa Clara University School of Law, 1987 J.D.

## Court Admissions

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- California
- USDC: Central District of California
- USDC: Eastern District of California
- USDC: Northern District of California
- USDC: Southern District of California

## Memberships & Associations

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- Association of Defense Counsel of Northern California and Nevada (ADC)
- San Mateo County Bar Association
- Santa Clara County Bar Association
- State Bar of California

## Accomplishments

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- Fellow, [Litigation Counsel of America™](#)
- *AV® Rating*, [Martindale Hubbell's](#) highest rating.
- [Northern California Super Lawyers®](#)
- A.M. Best Lawyers list, San Francisco Bay Area.
- Who's Who in American Law

## Representative Experience

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**Practice Area:** Employment

**Key Issues:** Unruh Act Violations

**Venue:** San Mateo County Superior Court

**Client Type:** Hospitality

Represented a Four Points by Sheraton Hotel and Suites property in South San Francisco. After his stay, a wheel chair bound disabled person sued the hotel for 19 Unruh Act Violations, treble damages/penalties and attorney fees, claiming denial of full and equal access to the facilities.

**Result:**

The case settled for \$8,000 plus an agreed remediation plan.

**Practice Area:** Employment

**Key Issues:** Sexual Harassment

**Venue:** USDC: Northern District of California

**Client Type:** Pharamcology Vigilance

A Pharmacology vigilance company CFO had an intimate and sexual relationship with a business development subordinate. She sued for sexual harassment.

**Result:**

The case resolved the day before Plaintiff's deposition for a nominal amount.

**Practice Area:** Employment

**Key Issues:** FEHA; Labor Commission; Wrongful Termination; Race Discrimination; Unpaid Vacation

**Venue:** San Mateo County Superior Court

**Client Type:** Defendant National Hotel Chain

In this case, we represented a national hotel chain in a FEHA and Labor Commission, Department of Industrial Relations, claims for wrongful termination based on race discrimination, and for unpaid vacation pay and overtime wages.

**Result:**

Settled.

**Practice Area:** Employment

**Key Issues:** Race Discrimination; Sex Discrimination; Employment Termination

**Client Type:** Defendant Non-Profit Company

Represented a non-profit company in a race and sex discrimination claim arising from employment termination.

**Result:**

Settled.

**Practice Area:** Employment

**Key Issues:** Gender Discrimination; Wrongful Termination

**Venue:** USDC: District of Arizona

**Client Type:** Defendant Hotel Management Company

We represented a hotel management company in a gender discrimination and wrongful termination case.

**Result:**

Settled with summary judgment pending.

**Practice Area:** Employment

**Key Issues:** Constructive Termination; Sexual Harassment; Sexual Assault

**Venue:** Santa Clara County Superior Court

**Client Type:** Defendant Independent Contractor

Constructive termination, sexual harassment and sexual assault case involving independent contractor and judicial estoppel issues.

**Result:**

The key witness in the case committed suicide during discovery and the case resolved nominally thereafter.

**Practice Area:** Appellate, Employment

**Key Issues:** Labor Code; Appeal

**Venue:** Worker's Compensation Appeals Board

**Client Type:** Defendant National Hotel Chain

Represented the employer in a Labor Code section 132(a) matter before the Worker's Compensation Appeals Board. Claimant alleged she was terminated because of a disability arising from a work related injury.

**Result:**

Settled

**Practice Area:** Employment

**Key Issues:** Sexual Harassment; Hostile Work Environment

**Venue:** Santa Clara County Superior Court

**Client Type:** Defendant National Hotel Chain

Represented defendant in a sexual harassment and hostile work environment action with alleged supervisor liability.

**Result:**

Case was resolved in a successful settlement.

**Practice Area:** Employment

**Key Issues:** Wrongful Termination

**Venue:** USDC: District of Arizona

**Client Type:** Defendant Resort Hotel

We represented our client, a resort hotel, in a wrongful termination action in violation of public policy alleged by hotel and resort food and beverage director.

**Result:**

Matter was resolved and dismissed.

**Practice Area:** Employment

**Key Issues:** Wrongful Termination; Election Code

**Venue:** Los Angeles County Superior Court

**Client Type:** Defendant National Hotel Chain

Represented a Los Angeles airport hotel, which was part of a national hotel chain, in an action involving wrongful termination in violation of public policy alleged in the context of Election Code violations, and a Petition for Referendum to repeal a local ordinance pertaining to hotel transient occupancy taxes.

**Result:**

After an eleven day deposition of the plaintiff, the case resolved for a nominal amount.

**Practice Area:** Employment

**Key Issues:** Sexual Harassment

**Venue:** San Mateo County Superior Court

**Client Type:** Hospitality

An action brought by two cooks working in South San Francisco alleging sexual harassment by an independent contractor for a national hotel chain.

**Practice Area:** Product Liability

**Key Issues:** Product Liability; Wrongful Death

**Venue:** San Mateo County Superior Court  
**Client Type:** Defendant; Tire Manufacturer

Represented a product manufacturer in a strict product liability wrongful death lawsuit against our client, the defendant.

**Result:**

Settled before trial.

**Practice Area:** Employment, International  
**Key Issues:** Sexual Harassment; Hostile Work Environment; Gender Discrimination  
**Venue:** USDC: Central District of California  
**Client Type:** Defendant International Wallcovering Company

Represented defendant in an action alleging sexual harassment, hostile work environment and gender discrimination.

**Result:**

Resolved in successful settlement

**Practice Area:** Copyright, Domain Name and Trademark Litigation, Intellectual Property, Trade Secret Protection and Litigation  
**Key Issues:** Intellectual Property; Trade Secret; Copyright  
**Venue:** State and Federal Court in Australia, Canada, Germany, South Africa, California, Colorado, Florida, Illinois, Kansas, Louisiana, Oregon, Minnesota, Missouri, Nevada, New Hampshire, New York, South Carolina, Washington, Washington DC,  
**Client Type:** Life Science Company

Represented in numerous jurisdictions a biotechnology/life sciences company - Applied Biosystems and Applera (now known as Life Technologies, Inc.)-in trade secret and copyright protection matters involving DNA test kits and sequencing devices which use polymerase chain reaction (PCR) technology.

**Result:**

We quashed numerous subpoenas demanding trade secret and unpublished developmental validation information.

**Practice Area:** Employment  
**Key Issues:** Race Discrimination; Sex Discrimination; Age Discrimination; Disability Discrimination; FEHA  
**Venue:** San Mateo County Superior Court  
**Client Type:** Defendant National Hotel Chain

We represented a national hotel chain in a Superior Court action wherein plaintiff alleged race, age, sex and disability discrimination (FEHA) arising from plaintiff's termination.

**Result:**

Successfully settled for the client

**Practice Area:** Employment  
**Key Issues:** Race Discrimination; Sexual Harassment; Retaliation  
**Venue:** USDC: Eastern District of California  
**Client Type:** Defendant Correctional Treatment Provider

Represented a national correctional facility treatment provider and operator in a race discrimination, sexual harassment and retaliation case.

**Result:**

Case successfully settled prior to trial.

**Practice Area:** Employment

**Key Issues:** Disability Discrimination; Wrongful Termination

**Venue:** Not Filed

**Client Type:** Plaintiff President Pharmaceutical Company

We advised the president of a multi-billion dollar pharmaceutical company in a disability discrimination and wrongful termination action.

**Result:**

The case settled prior to the filing of a lawsuit.

**Practice Area:** Employment

**Key Issues:** Assault; Battery

**Venue:** Santa Clara County Superior Court

**Client Type:** Defendant National Hotel Chain

We represented a national hotel chain wherein a defendant employee demonstrated fighting move on co-employee plaintiff and fractured his neck. Plaintiff asserted a claim for assault and battery and respondent superior liability against employer alleging that it knew defendant employee had a propensity for violence, and the employer ratified such behavior. Plaintiff claimed that the case fell outside the worker's compensation exclusive remedy (serious and willful allegations eventually were dismissed).

**Result:**

Plaintiff claimed that the case fell outside the workers's compensation exclusive remedy (serious and willful allegations eventually were dismissed).

**Practice Area:** Civil Rights, Employment

**Key Issues:** Civil Rights; Discrimination; Wrongful Termination; Indian Preference Act

**Venue:** USDC: Northern District of California

**Client Type:** Defendant Health Care Center

Represented and Indian health center in a civil rights, discrimination and wrongful termination action involving the Indian Preference Act.

**Result:**

Matter was resolved is mediation.

**Practice Area:** Employment

**Key Issues:** Wrongful Termination; Sexual Assault

**Venue:** San Francisco County Superior Court

**Client Type:** Defendant Car Dealership

Represented a car dealership in a wrongful termination action alleging a violation of public policy. Plaintiff claimed

to be a whistleblower.

**Result:**

The case ended in a successful settlement ten days before trial after a co-employee claimed that the plaintiff sexually assaulted her.

**Practice Area:** Product Liability, Unfair Competition

**Key Issues:** Product Liability; Breach of Warranty; Breach of Contract; Unfair Competition

**Venue:** Santa Clara County Superior Court

**Client Type:** Defendant Manufactured Homes Dealer

Represented manufactured homes dealer in 30+ cases involving claims for product liability, breach of warranty, breach of contract and unfair competition.

**Result:**

The two cases led to a jury verdict and Judgments in favor of the client. After the Court awarded the client attorney fees in both cases, and the Judgments were pursued, the plaintiffs filed bankruptcy and the serial litigation against the client ceased.

## Publications

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- Author, *Govori v. Goat Fifty*: Court's decision sides with wanna be moms , *Employment Case Alert*, 4/29/2011
- Author, Employment Newsletter, *Employment Law & Issues*, 2/11/2011