

# Daily Journal

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## Lawyers in California 2016

### LITIGATION

## JAMES MCMANIS

MCMANIS FAULKNER | SAN JOSE

SPECIALTY: CIVIL RIGHTS, COMMERCIAL DISPUTES, EMPLOYMENT

The firm McManis founded will be 45 years old Oct. 1. It has grown from one lawyer to 25 and employs nearly 60 support staff members. “We’re having a big party,” McManis said. “I love this work. It’s a diverse practice — from civil rights to divorce to trial work. And I emphasize that we are trial lawyers, not the kind of litigators who do everything, but actually try cases. Trial lawyers are a dying breed who practice a dying art. It’s like saying I’m proud to be a dinosaur.”

Upcoming on his docket is an argument before the California Supreme Court over San Jose officials’ practice of withholding records relating to public business that were sent or received on private devices like cellphones on the grounds that they are not public records. The dispute arose after an environmental activist sought communications regarding a development project. City officials agreed to produce records stored on its servers and those transmitted using city accounts, but not communications from individual officials’ personal electronic accounts stored solely on personal devices or servers. A San Jose trial judge sided with McManis’ position, only to be reversed by the 6th District Court of Appeal. The state high court granted review. *City of San Jose v. Superior Court (Smith)*, S218066 (Cal. Sup. Ct., filed May 7, 2014).

“It would be a huge loophole in the California Public Records Act if the city’s position prevailed,” McManis said. “Most of the media in the state have lined up with us as amici, while the League of California Cities is supporting the other side. It’s simple: The press wants access and all these government types are trying to keep us away. Nothing could speak louder to what is at



stake here.” He said the dispute, a matter of first impression, reminds him of the national controversy over presidential candidate Hillary Clinton’s private email server. “Maybe Hillary will write a friend of the court brief for our opponents,” McManis said. “The bottom line is, if you don’t want information in the public realm, then don’t use your phone for public stuff.” The case is fully briefed and awaiting an oral argument date.

On July 27, McManis obtained a federal civil rights jury verdict in favor of his client, registered nurse Shiow-Huey Chang, who was stopped for

“driving too slow,” according to dashcam tape, forcibly removed from her car, roughed up and falsely arrested by a Santa Clara County sheriff’s deputy. “I’m proud of that verdict. The county should have fired that deputy eight years ago,” said McManis, who represented another Asian-American victim of the man years earlier. The jury awarded Chang \$40,000. McManis is pursuing a six-figure fee award, he said. *Chang v. County of Santa Clara*, 5:15-cv-02502 (N.D. Cal., filed June 5, 2015).

— John Roemer