

Daily Journal

OCTOBER 26, 2016

TOP BOUTIQUES IN CALIFORNIA 2016



Sam Attal / Special to the Daily Journal

From left, Ruby H. Kazi, Michael W. Warren, James McManis, Elizabeth M. Pipkin, Matthew T. Schechter, Michael G. Reedy, William W. Faulkner, Tyler Atkinson and Christine E. Peek.

LITIGATION

McManis Faulkner

James McManis left the Santa Clara County District Attorney's office 45 years ago to found his own firm. "For three years out of law school, I prosecuted criminal cases for the DA, but I wanted to be my own boss," he said. "I didn't want to write wills or contracts. I wanted trial work." He recalled that his bare bones operation at first had no staff and an office rent of \$60 a month. William Faulkner, fresh out of law school, joined him in 1978. "Judges, police officers and trial lawyers kindly referred cases to me," McManis said.

Sixteen years in, he was doing mostly criminal defense alongside family law, civil litigation and employment law cases. "When you are starting out with nothing, I wasn't about to turn down anything," McManis said. A big break arrived in the late 1980s when then-Santa Clara

County Superior Court Judge Conrad L. Rushing — now the presiding justice at the 6th District Court of Appeal — appointed McManis as special master in what was then the largest investment fraud case in California history. San Jose-based Technical Equities Corp. was charged with taking nearly \$150 million in investors' funds. A jury awarded those suffering losses a record \$147 million in punitive damages.

"There were discovery disputes, and I heard law and motion calendars when Judge Rushing was away," McManis said. "The case exposed me to the top lawyers and law firms in the U.S. It was an exciting thing. I started getting major civil referrals. It put me on the map. My horizons expanded from criminal to civil."

Today, McManis Faulkner has 23 trial lawyers and a support staff of 35. And his civil practice has expanded

to the point where he is preparing to argue a case of first impression before the state Supreme Court over San Jose officials' practice of withholding records relating to the public that were sent or received on private devices like cellphones on the grounds that they are not public records.

The dispute arose after McManis' client, environmental activist Ted Smith, filed a California Public Records Act request for 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."

McManis Faulkner also represents a certified class of San Jose residents suing the city over the alleged misappropriation of \$33 million from its water utility. The suit claims the money was illegally placed in the city's general fund in violation of state law. Trial is expected early next year. *Plata v. City of San Jose*, 1-14-cv-258879 (Santa Clara Super. Ct., filed Jan. 10, 2014).

"We sent them a form letter inviting settlement talks," McManis said. "There has been radio silence so far. Why that is, is a mystery to me. It's a clear case: the city stole \$30-plus million. Basically, they're just running up the bill by stalling."

McManis said he's proud that he runs a firm in which most of the lawyers are women. "At one recent management meeting, a woman said that we need more diversity around here — let's hire a man. Sometimes, they call me an honorary female lawyer, and I take that as a compliment. Pay equity has always prevailed here. I'm always on the lookout for some good gender bias cases."

He said the staff is diverse in other ways. "We've got the children of immigrants working here: their people are from Iran, India, Japan, Mexico. There's every religion, including Jewish and Muslim. A Baha'i woman recently left to start her own firm. A few Republicans even managed to slip through security." He said he keeps the office atmosphere light. "Some of these cases are pretty heavy stuff. You should always take the work seriously, but never take yourself too seriously."

—John Roemer