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JOHN D. O'CONNOR

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CURRICULUM VITAE

John O'Connor has extensive trial experience in federal and state venues throughout the country, with highly enviable success in complex, contentious disputes. During our country's financial crisis of the 1980's and 1990's, he was retained in significant matters on behalf of the FDIC, FSLIC, RTC and NCUA. O'Connor was chosen to act as lead counsel on significant smoking and health cases on behalf of R. J. Reynolds Tobacco Company and has represented the California Attorney General, an NBA coach, and municipal and county officials. He has as well facilitated the satisfactory resolution of closely-held business disputes.

He has significant experience in a wide variety of complex litigation assignments; and has offered and examined expert witnesses in numerous fields and under varied liability and damage theories.

Subject matter areas have included contract and fraud; intellectual property; white-collar crime; real estate; banking and financial institutions; construction; insurance coverage and insurance brokerage; employment and discrimination; antitrust; professional malpractice, including legal, medical, engineering, real estate and insurance brokerage; failed financial institutions; legal fee disputes; valuation of closely held business; franchisor/franchisee; tobacco, smoking and health; asbestos and toxic tort; and others. His extensive and varied litigation experience, plus his work in attorneys' fees disputes, have led to his retention as a litigator, expert and consultant on attorneys' fees matters, including his selection as a JAMS arbitrator on a significant fee arbitration.

Mr. O'Connor has held the highest Martindale-Hubbell "AV" rating for over 25 years, and has consistently been named a "Super Lawyer" by his Northern California peers. He has tried cases at the highest levels of practice since 1972.

EMPLOYMENT HISTORY

**Principal, O'Connor and Associates
San Francisco, CA**

July 2006-Present

Acting as Principal of boutique litigation firm, has litigated cases in Washington, D.C., Dallas, Texas, Reno, Nevada and throughout California. Assignments have included real estate lease, construction, director and officer, copyright and intellectual property, investment advisor, legal malpractice and ownership/sale of business disputes.

**Director, Howard Rice Nemerovski Canady Falk and Rabkin
San Francisco, CA**

2001-2006

Named by client R.J. Reynolds Tobacco Company to be lead Western States litigator and trial counsel in numerous high-exposure smoking and health cases; co-counsel with trial responsibility in two significant intellectual property disputes; as lead trial counsel, achieved significant eight-figure investor advice settlement; and various assignments regarding trial strategies.

**Managing Litigation Partner, Tarkington, O'Connor and O'Neill
San Francisco, CA**

1982-2000

Beginning as three-lawyer startup, achieved excellent success and growth representing governments, financial institutions, risk managers, insurers, and insurance brokers. Named primary litigation counsel for numerous failed banks, savings and loans, and credit unions on behalf of the FDIC, FSLIC, RTC, and NCUA. Varied assignments representing insureds, self-insureds, receivers and conservators, involving a range of tort and insurance coverage issues. Achieved excellent results in numerous trials and arbitrations.

**Senior Associate, Brobeck Phleger and Harrison
San Francisco, CA**

1980-1981

Enjoyed significant experience in highly-reputed litigation department of prestigious firm. Assignments included significant deposition work in complex financial guarantee, antitrust, real estate and intellectual property litigation.

**Assistant U.S. Attorney, Northern District of California
San Francisco, CA**

1974-1979

Prosecuted primarily white-collar criminal cases, while defending a variety of civil suits against governmental officials and agencies, ranging from constitutional claims to employment discrimination, energy and medical malpractice claims. Wrote all state of mind and 5th Amendment briefs, and prepared psychiatric expert witness, in *United States v. Hearst*. Gained significant trial experience with and against the leaders within the Bay Area litigation bar.

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Associate, Belli, Ashe & Choulos, Ellison & Lief
San Francisco, CA

1972-1973

Assigned high levels of responsibility as assistant to firm partner Melvin Belli, including second chair trial experience with Mr. Belli in high exposure cases and solo trial responsibility in other significant litigation. Pursued plaintiffs' claims in legal and medical malpractice, partnership and joint venture disputes, class action, antitrust, product liability and defamation.

Education and Honors

University of Michigan Law School, *cum laude* – Juris Doctorate 1972

- Member, Michigan Law Review (1970-1972), Associate Editor (1971-1972)
- Member, *Order of the Coif* (1971-72)
- Winner of three AmJur awards as the most outstanding student in a subject. University of Notre Dame, *magna cum laude* – A.B., 1968

Admissions and Associations

- American Bar Association
- Member, California Bar
- Member, Indiana Bar

Illustrative Cases

- After an 8-week Nevada jury trial, received a \$165 million counterclaim settlement in a hotel/casino lease dispute
- Defense verdict-unfair competition/trade secret, U.S. District court, San Francisco; obtained \$1.3 million verdict on counterclaim
- Defending an \$8 million container-crane construction defect claim, received \$2.7 million counterclaim verdict for bidding misrepresentation
- Defense verdict- on claim of brake failure of defendant's brakes, allegedly causing the wrongful death of both parents and severe injuries to two surviving children
- After a 2-week Marin County jury trial, received a \$2.5 million settlement on behalf of two homeowners against soils engineer and contractors
- Defense verdict-San Francisco, paraplegic plaintiff
- After defense rejected a \$33,000 arbitration award, received \$500,000 verdict, soft tissue injury, San Francisco
- Successful insurance coverage bench trials
- Legal fee recoveries for client firms
- Defense verdicts-U.S. District court, San Francisco, in four civil RICO fraud cases brought by franchisees against franchisor
- Numerous successful criminal prosecutions, U.S. District Court, San Francisco.
- Numerous successful closures and receiverships of failed or troubled financial institutions on behalf of FDIC, RTC, FSLIC, and NCUA
- In United States v. Hearst, wrote government's Fifth Amendment brief, persuading

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the Court to reverse prior rulings prohibiting prosecution from cross-examining defendant on “missing year,” to counteract defense of brainwashing-assisted duress; defendant took Fifth Amendment forty-two times in front of the jury, which was instructed to draw negative inferences from refusals.

- Co-counsel for plaintiff law firm in two successful libel verdicts of \$3.0 million and, on damages retrial, \$3.6 million against major insurer.
- Senior trial attorney supervisor in defense of 5,000 asbestos cases, over 100 of which were tried, with no significant adverse result relative to pretrial demand
- As lead attorney in defense of major tobacco companies, achieved pretrial dismissals in each assigned case.
- In Nelson v. Dallas Mavericks, arbitration award of full amount of damages sought of \$6.3 million, plus one hundred percent of attorneys fees sought, on behalf of NBA coach seeking deferred compensation withheld by NBA franchise.
- Successful defense in arbitration of claims seeking rescission, on the basis of fraud, of copyright assignment and copyright damages; in purchasing fifty percent interest in copyright owned by plaintiff’s ghostwriter, defendant allegedly failed to disclose he was Watergate source Deep Throat, and planning to publically reveal his identity.

OUTSIDE INTERESTS AND ACTIVITIES

Club Memberships

- Olympic Club, San Francisco, Member 1984 – Present
- Family Club, San Francisco, Member 1987 – Present
- Lagunitas Country Club, Ross, Member 1988 – Present; Past Vice-President and Board Member
- Lincoln Club of Northern California, Northern California, Member 2008 – Present; Board Member

Volunteer Activities

- Coach CYO Basketball, Soccer, Little League Baseball, 1980 – 1996
- Board Member, Youth Projects, Inc. (Haight-Ashbury Free Medical Clinic) 1972 – 1979
- Pro Bono Attorney, Youth Projects, Inc., 1972 – 1975
- Board Member, Big Sisters of Marin, 1981 – 1990; one year as Board Member of merged Board Big Brother and Big Sisters of Marin; Present Board Member, Big Brothers and Big Sisters of the Bay Area
- Pro Bono Attorney, W. Mark Felt, “Deep Throat” of the Watergate Scandal
- Author, “I’M THE GUY THEY USED TO CALL DEEP THROAT,” Vanity Fair Magazine, July 2005; Co-Author with W. Mark Felt A G-Man’s Life: The FBI, Being ‘Deep Throat,’ and the Struggle for Honor in Washington, Public Affairs, 2006
- Attorney and advisor for Coach Don Nelson of National Basketball Association and various associated activities
- Member, Campaign Steering Committee: Lungren for Attorney General (1990, 1994); Lungren for Governor (1998)

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