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TOP 10 LAWYERS IN CALIFORNIA 2019

LITIGATION

JONES DAY | LOS ANGELES

DANIEL D. MCMILLAN

SPECIALTY: CONSTRUCTION LITIGATION AND CONTRACTS

As co-leader of Jones Day’s global construction practice, McMillan tackles complex projects for owners, contractors, design professionals and public entities.

He is the lead lawyer representing the Transbay Joint Powers Authority in San Francisco in class litigation over the infamously leaning Millennium Tower condominium project.

“We are definitely involved in the fix,” he said in late August. “Who is responsible for the tilting and what are the damages?” *Lehman v. Transbay Joint Powers Authority*, CGC-16-553758 (S.F. Super. Ct., filed Aug. 17, 2016).

The case appeared to be moving toward settlement as San Francisco Superior Court Judge Charlene P. Kiesselbach on Aug. 28 vacated a trial date and announced, “The matter has, in principle, reached a resolution.”

It is one of the highest-profile civil cases in the country, McMillan said. The 58-story luxury tower has sunk 16 inches and has slowly tilted since its opening in 2009. Residents have included quarterback Joe Montana, baseball player Hunter Pence and the late venture capitalist Thomas J. Perkins.

“This is a monumental inflection point,” McMillan said of the tentative deal. “The parties have committed to financial contributions.” Terms remained confidential

while the parties hammer out details, he added, but agreed that an oft-cited \$100 million retrofit figure “is the right order of magnitude.”

A major step forward, he said, was a report by independent experts called in to review a proposed engineering fix had endorsed the plan for a “perimeter pile upgrade” to stabilize the building.

McMillan said he’s working with other lawyers on a mediation team on terms of the settlement and the details of the financial package. “I’ve learned not to count your settlement numbers before they hatch. But we are here to insure that at the end of the gestation, a healthy deal is born.”

In Los Angeles, McMillan said he’s most proud of his successful litigation on behalf of the Metropolitan Transportation Authority to let go forward Measure M, the sales tax initiative passed in 2016 that will raise more than \$120 billion over the next 40 years to fund traffic and transit improvements.

Now as he drives around the city he can see subway projects and other infrastructure upgrades in progress. “You can watch the expansion of the backbone of transit in



L.A. The great thing about construction law is that I can look out and say I was involved in that.

It gives me a warm feeling in my heart.” He takes similar enjoyment from his work in San Francisco. “I was at my daughter’s wedding on Alameda Island” in San Francisco Bay, he said, “and I’m looking across the water at the Millennium Tower. I got to see my work literally in action.”

— John Roemer