Marcellus McRae

Partner

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Los Angeles



Marcellus Antonio McRae is a partner in the Los Angeles office of Gibson Dunn . He serves as co-chair of the firm's Trials Practice Group. Marcellus has been recognized by *Chambers USA* as a leading commercial litigation lawyer in California, and *California Lawyer* featured him as one of its honorees in its 2015 *California Lawyer* Attorney of the Year Awards. He is a member of the firm's White Collar Defense and Investigations, Government Contracts, Media, Entertainment and Technology, and International Trade and Regulation Compliance Practice Groups. Marcellus's litigation and white-collar criminal defense practices focus on a wide variety of business disputes, internal investigations, and criminal prosecutions including defense of individuals and corporations in cases involving allegations of: financial fraud, False Claims Act violations, public corruption, violations of federal and state environmental laws, health care fraud, wrongful death, criminal antitrust violations, and other matters. He also represents and advises employers in wrongful termination, retaliation, and whistleblower claims.

Marcellus has first chaired numerous jury trials, bench trials, and arbitrations in both federal and state courts. He also writes and speaks on trial and litigation skills, white-collar criminal defense, labor and employment law, and other topics. From 1995 until joining Gibson, Dunn & Crutcher in February 1998, Marcellus served as an Assistant United States Attorney with the Criminal Division, Major Frauds Section, of the United States Attorney's Office in Los Angeles. While he was an Assistant United States Attorney, Marcellus investigated and prosecuted complex white-collar crimes (tax, securities, bankruptcy, and other business frauds) and traditional crimes that involved both jury and non-jury trial experience with a 100 percent conviction rate at trial. He has also drafted and argued numerous appeals before federal and state courts of appeal. Prior to joining the United States Attorney's Office, Marcellus was an associate with Debevoise & Plimpton.

Some of Marcellus's achievements include:

Trials and Litigation

- Successfully defended a major legal news and research company in a multi week jury trial against claims of gender and pregnancy discrimination and constructive discharge.
- Defended large aerospace and defense company in an environmental class action at trial.
- Successfully defended major telecommunications carrier in arbitration regarding breach of contract claims.
- Successfully defended major insurance company in a class action asserting breach of contract claims by obtaining summary judgement.
- Defended large manufacturer in antitrust jury trial.
- Successful defense of major health care company in federal jury trial against

Capabilities

Litigation
Accounting Firm Advisory and Defense
Anti-Corruption & FCPA
Environmental
Government Contracts
Insurance and Reinsurance
International Trade Advisory and Enforcement
Labor and Employment
Media, Entertainment, and Technology
Trials
White Collar Defense and Investigations

Credentials

Education

Harvard University - 1988 Juris Doctor
University of California - Los Angeles - 1985 Bachelor of Arts

Admissions

California Bar

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claims of age discrimination.

- Defended investment management company in federal court trial involving breach of contract and employment claims.
- Defended media executive in federal criminal securities trial.
- Successfully defended company against suit seeking damages for losses attributed to alleged cryptocurrency thefts.
- Defended a telecommunications company against alleged contract discrimination claims.
- Secured reversal from the California Court of Appeal of a judgment against the City of Santa Monica under the California Voting Rights Act and the California Constitution.
- Successfully defended an international construction company and other entities against both state and federal False Claims Act allegations by obtaining summary judgment.
- Represented as co-lead trial counsel California schoolchildren in *Vergara v. State of California* in asserting a state constitutional challenge to laws that prevent school administrators from hiring and retaining the most effective teachers (studentsmatter.org).
- Defended a telecommunications company in a putative class action alleging false advertising.
- Successful defense at trial of Vestin Realty Mortgage I and II in a nationwide class action alleging that the merger of funds into the trusts constituted a “roll up.”
- Successful defense of Nutro Products, Inc. in an eight-week jury trial in a mass action in which homeowners claimed that the company’s production facility emitted a nuisance odor.
- Defended major energy company in a seven week jury trial regarding in an environmental dispute.
- Defended medical school in claims alleging employment discrimination and harassment.
- Successfully defended major university by obtaining grant of summary judgment in an arbitration involving defamation and related claims.
- Defending major corporations in *qui tam* litigations and parallel proceedings involving False Claims Act violation allegations.
- Representation of an I.R.A. administrator in a class action against claims that it aided and abetted a fraud against investors.
- Representation of Pacific Maritime Association and members in an action involving claims of gender and race discrimination, harassment and retaliation.
- Successful defense of Dean Witter Reynolds, Inc. in a jury trial against allegations that it defrauded California Union Insurance Company into issuing performance and property coverage on several wind turbine farms.
- Successful defense at trial of a film and television celebrity in a palimony action.
- Representation of Deloitte & Touche LLP in a state court action involving allegations of age and race discrimination.
- Successful defense of ITT Educational Services in a False Claims Act retaliatory discharge action both at the trial level by obtaining summary judgment and at the appellate level by securing affirmance of the summary judgment ruling.
- Representation of PricewaterhouseCoopers in a state court action involving allegations of gender discrimination and failure to promote.
- Representation of United Parcel Service in a state court action involving allegations of sexual harassment.

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- Successful defense of one of the world's leading media and entertainment companies in a three-week arbitration involving claims for profit participation in a syndicated series.
- Represented clients in an appeal of an Unruh Act judgment in which the appellate court reversed the award of punitive damages and the attorneys' fees award.
- Defending major telecommunications company on appeal against breach of contract and privacy violation allegations.
- Successful defense of ConAgra Foods, Inc. in a four-week jury trial involving breach of contract and fraud claims arising from the termination of a beef distribution relationship.
- Represented one of the leading watch manufacturers and one of the world's largest retailers in a federal trademark infringement litigation.

White Collar Defense and Investigations

- Represented a multinational energy company in an environmental litigation and investigations.
- Counseled multinational corporations in various aspects of the Foreign Corrupt Practices Act.
- Represented domestic and international clients in export control enforcement matters and investigations.
- Represented major corporations in federal grand jury investigations involving contract and payment disputes with various regulatory agencies.
- Defended a municipality in a federal criminal investigation alleging Clean Water Act violations. No charges were filed.
- Defended retailers in civil class action and criminal proceedings involving pricing accuracy claims.
- Defended an elected official in a public corruption investigation. No charges were filed.
- Defended food and beverage manufacturers in federal criminal investigations alleging Clean Water Act violations.
- Defended a maritime company in a federal criminal investigation alleging violations of the Act to Prevent Pollution from Ships. No charges were filed.
- Defended food manufacturer in federal criminal investigation alleging violation of USDA regulations.
- Conducted a wide range of internal investigations concerning financial controls and procedures, executive misconduct, government contracting improprieties, and alleged violations of federal election campaign laws, federal communications commission rules and regulations, kickbacks, fraud, and other federal and state laws.

Professional and Community Associations and Activities

Marcellus is currently a member of the Public Counsel Board of Directors and the Board of Advocates of Human Rights First. He also serves on the Advisory Board of the NYU School of Law Policing Project and is a member of the Pro Bono Civil Rights Panel of the United States District Court for the Central District of California. He is also a former Co-Chair of the firm's White Collar Defense and Investigations Practice Group and a former member of the Board of Directors of Big Brothers Big Sisters in Los Angeles. He has served as an adjunct professor of Advanced Trial Advocacy at Loyola Law School, teaches trial advocacy at Harvard Law School, and was an instructor at the national level for the National Institute of Trial Advocacy. Marcellus has conducted mock jury trial demonstrations at numerous national American Law Institute-American Bar Association conferences and has been a featured panelist at many professional seminars regarding a

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wide range of topics including trial advocacy, individual and corporate criminal defense, education reform, federal sentencing guidelines, police reform, and employment litigation. He also frequently appears on television and radio and in print media as a legal commentator. He has also been a Co-Chair from 2003-04 of the Lawyer Delegates to the Ninth Circuit – Central District of California; chair of the Environmental Crimes Committee for the West Coast Chapter of the American Bar Association; a member of the Judicial Appointments Committee for the Los Angeles County Bar Association; the Los Angeles County Bar Complex Court Committee; the Board of Trustees of the Los Angeles County Bar Association, the Executive Committee of the Criminal Justice Section of the Los Angeles County Bar Association; the Attorney Discipline Committee for the Central District of California; the Attorney Admissions Fund Board for the Central District of California; the Advisory Board of the Practical Law Company, and the Steering Committee of the California Minority Counsel Program. Marcellus was also a Deputy General Counsel to the Citizens' Commission on Jail Violence for the County of Los Angeles, a member of the LAPD Police Commission Rampart Review Panel, and was on the List of Counsel for the International Criminal Court in the Hague.

Speaking Engagements and Media Interviews

- "Witness Interviews," course on internal corporate investigations at the University of California Los Angeles School of Law, February 24, 2023
- "Contextualizing the Law of Police," American Bar Association, January 24, 2022
- "A New Era in Jury Selection in California: Preparing for and Complying with AB3070," Association of Business Trial Lawyers, January 26, 2021
- "Opening Statement Demonstration: Civil Litigation Walk-Through Program," Los Angeles Superior Court, March 18, 2017
- "CJA/TRG 2017 Civil Litigation Challenges: Excelling in the "Big League" Program," California Judges Association and The Rutter Group, February 25, 2017
- "Teaching Trial Advocacy," Harvard Law School, January 17-20, 2017
- "Police Reform: Insights, Approaches and Next Steps," Gibson Dunn, Public Counsel, and Bet Tzedek, November 15, 2016
- "2016 Complex Court Symposium," Los Angeles County Bar Association, November 9, 2016
- "3 Skills No Partner Can Do Without," *Law360*, May 18, 2016
- "Annual Uvaldo Herrera National Moot Court Competition," Judge, Hispanic National Bar Association, March 17-18, 2016
- "Trial Pros: Gibson Dunn's Marcellus McRae," *Law360*, March 4, 2016
- "Civil Litigation Walk Through Program," Los Angeles Superior Court, March 5, 2016
- "Celebrating Business and Community Partnerships," Keynote Speaker, Southern CA Edison's (SCE) 2016 Black History Month Celebration, February 5, 2016
- "Black and Blue: Policing the Color Line," panel, Charles Hamilton Houston Institute for Race and Justice, August 19, 2015
- "Former Employees and Executives as Non-Party Witnesses in Employment Litigation," Strafford Webinars, August 13, 2015
- "Can *Vergara* Fix Our Schools?" *California Lawyer*, August 2015
- "California's Teacher Tenure Battle Continues in the Court of Appeals," Interview with Legal Broadcast Network, July 3, 2015
- Presentation to California School Boards Association, discussing the *Vergara* Case, San Francisco, CA, December 15, 2014
- Presentation to California Association of Suburban School Districts, discussing the *Vergara* Case, San Francisco, CA, December 14, 2014

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- Presentation to the National Association of Black Educators, discussing the *Vergara* Case, Kansas City, MO, November 20, 2014
- "Plaintiff attorney in the landmark Vergara case in Twin Cities to talk about teacher tenure," Star Tribune, November 14, 2014
- Phi Delta Kappa – USC Chapter Dinner, discussing the *Vergara* Case, Los Angeles, October 10, 2014
- "Affirming the Fundamental, Constitutional Right of Every Student to Learn from Effective Teachers and Have an Equal Opportunity to Succeed in School," Glendale Bar Association Dinner Meeting, October 1, 2014
- "Getting the Best Education for All Our Kids: The Lawsuits That Could Transform American Public Schools," panel, The Aspen Institute, Justice & Society Program, Washington, D.C., September 30, 2014
- "Central African Republic and the Responsibility to Protect" panel, Pacific Council on International Policy, September 23, 2014
- "Learning About *Vergara,* Part 1: The Plaintiff's Perspective," The Education & Law Society, University of California Los Angeles, September 22, 2014
- The New Teacher Project Conference Panel, Atlanta, GA, September 18, 2014
- "Tenure on Trial," Pomona Student Union, Pomona College, September 8, 2014
- Marcellus McRae, Interview with LaDona Harvey, KOGO Radio, discussing the *Vergara* case, September 4, 2014
- "Deposition Strategies in Employment Litigation: Taking and Defending Depositions of Plaintiffs and Fact Witnesses," Strafford Webinars, August 13, 2014
- "Cross-Examination of Experts," Institute of Commercial Forensic Practitioners, Emperor's Palace, Centurion, South Africa, July 22, 2014
- "Taking on Teachers by Targeting Tenure," Interview with Melissa Harris-Perry, MSNBC, June 15, 2014
- NBC News Conference, KNBC, discussing Students Matter case, June 15, 2014
- "Best Practices in the Use of Witness Statements" panel, ABA International Bar Association-Africa Committee, Washington, D.C., June 3, 2014
- Marcellus McRae, Interview with LaDona Harvey, KOGO Radio, discussing Students Matter case, April 30, 2014
- "Success Stories and Progress in Africa's Anti-Corruption Efforts: Taking Stock and Moving Forward," American Bar Association Section of International Law 2014 Spring Meeting, New York, NY, April 4, 2014
- Students Matter Ruling with Marcellus McRae, The Roger Hedgecock Show, U-T-TV, December 18, 2013
- "Differing Perspectives on Education Reform," Youth and Education Advocates at Stanford, Shaking the Foundations 2013, November 1, 2013
- "Deposition Strategies in Employment Litigation," Strafford Webinars, October 29, 2013
- UCLA Education Litigation Panel, September 18, 2013
- "U.S. Foreign Corrupt Practices Act Enforcement and the Guidelines Recently Issued Jointly by the SEC and DOJ," Thirty-First International Symposium on Economic Crime, September 4, 2013
- "Case Assessment and Evaluation – Developing Informed Estimates," Defense Research Institute, Let's Talk Series, August 15, 2013
- Teaching Lawyers Without Borders – Anti-Corruption and Trial Advocacy Training in Kenya, August 5-9, 2013
- "Setting the benchmark: LIBOR and the Upswing in International Financial

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Services and Securities Fraud Investigations and Prosecutions," 16th Annual Transnational Crime Conference, International Bar Association, May 16, 2013

- "Developing Informed Litigation Budgets," Practical Law Company Webinar, May 8, 2013
- "FCPA Concepts and Considerations," Los Angeles County Bar Association Corporate Roundtable Dinner, March 13, 2013
- "Deposition Strategies in Employment Litigation," Strafford Publications Webinar, November 13, 2012
- "In-house Counsel's Guide to Trial Prep," Practical Law Company Webinar, November 6, 2012
- "Dialogues on Detention: Applying Lessons from Criminal Justice Reform to the Immigration Detention System," Human Rights First, Public Dialogues Series, September 24, 2012
- "Former Employees and Executives as Non-Party Witnesses," Strafford Publications Webinar, September 5, 2012
- "2012 Mid-Year OFAC Update," Gibson Dunn Webcast, July 10, 2012
- "One Nation Under Arrest? The Growth of Federal Criminal Law," The Federalist Society, Los Angeles Chapter, April 24, 2012
- "Ethics Surrounding Attorneys' Fees: How to Agree to Them, Collect Them, Keep Them, and Persuasively Seek Them as Sanctions," ABA Section of Litigation Annual Conference, April 20, 2012
- "Learn What Matters in Federal Court: Hear from the Decisionmakers," Public Counsel/Los Angeles County Bar Association Barristers' CLE program, panel entitled "How to Win Summary Judgment," February 24, 2012
- "To Arbitrate or Not?" Bridgeport Continuing Education Seminar, January 13, 2012
- "2011 Year-End OFAC Update," Gibson Dunn Webcast, January 12, 2012
- "Deposition Strategies in Employment Litigation," Strafford Publications Webinar, November 22, 2011
- "Former Employees and Executives as Non-Party Witnesses: Navigating the Complexities of Privilege, Compensation, Cooperation with Counsel and Protection of Business Information," Strafford Publications Webinar, October 11, 2011
- "Elements of An Effective Compliance Program," Annual Conference of the African Legal Network, November 22, 2005

Publications and Acknowledgments

Marcellus has been recognized in such publications as *The Best Lawyers in America*®. He was named a California "Litigation Star" in the 2018, 2019, and 2025 editions of *Benchmark Litigation*. *BTI Consulting* named Marcellus to its 2019 BTI Client Service All-Stars List, which recognizes attorneys "who deliver incomparable levels of client service excellence." California Lawyer featured him as one of its honorees in its 2015 *California Lawyer* Attorney of the Year Awards. The *Los Angeles Business Journal* named Marcellus among its 2022-2024 Leaders of Influence: Litigators & Trial Attorneys, a list "of the very best litigators and trial attorneys in the region." In addition, this publication named him to its 2016, 2019, 2024, and 2025 "Most Influential Minority Attorneys in Los Angeles" list. *Who's Who Legal: Investigations 2016*, along with its sister publication, *Global Investigations Review,* recognized Marcellus as a leading individual for his expertise in internal and regulatory investigations. He was named to the *Daily Journal*'s list of "Top 100 Lawyers in California" for 2014, 2015 and in 2020. In 2015, the *Daily Journal* recognized *Vergara v. State of California* as one of its Top Plaintiff's Verdicts By Impact in 2014. In *Vergara v. State of California*, Marcellus helped secure a landmark civil rights decision that struck down California's teacher tenure and dismissal statutes as unconstitutional. Marcellus's victory for *Los Angeles County Metropolitan Transportation Authority et al. v.*

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Parsons-Dillingham Metro Rail Construction Manager Joint Venture et al. was also recognized by the *Daily Journal* as one of the Top Defense Results in 2015. Marcellus served as the lead defense attorney and helped Parsons-Dillingham obtain the defense win in that matter. Marcellus's latest victory for the City of Santa Monica, in *Pico Neighborhood Association V. City of Santa Monica,* landed him another *Daily Journal* Top Verdict for 2020 honor when a state appellate panel reversed a Los Angeles County Superior Court judge. The victory helped set standards for future claims involving lawsuits targeting California cities for alleged violations of the California Voting Rights Act. He was also named as one of the *Daily Journal*'s "Top 20 California Attorneys Under 40" in 2003. In January 2004, Marcellus was selected by *Law & Politics* magazine as one of California's "Superlawyers" in the area of Business Litigation, based on a survey of more than 65,000 California lawyers. *Lawdragon* magazine, which spotlights "attorneys who excel representing principally corporations and other organizations in litigating claims," named him in its *500 Leading Litigators in America* guide for 2023-2026. This publication also named Marcellus in 2006 among the "New Stars, New Worlds," which features up-and-coming talent and lawyers with fascinating new practices. In 2015, Marcellus, along with partner Theodore Boutrous, was recognized by *The Recorder* magazine in their annual "Litigation Department of the Year" competition in the "Ground Breakers" category. In 2016, the *Recorder* magazine also recognized Marcellus in their annual "Litigation Department of the Year" competition in the "Game Changers" category.

Marcellus has also authored and co-authored several articles including "Evidence," *California Litigation Review* (2016); "Challenging Inequality," *Los Angeles Lawyer* (July/August 2015); "Evidence," *California Litigation Review* (2015); "Africa – 2013 Legal Developments," *Africa Law Today*, Issue 1 (2014), a publication of the ABA Section of International Law; "State and Commerce Departments publish significant rule changes to export controls regulations," *Lexology* (2013); "Scope of Employment," *Los Angeles Lawyer* (2013); "Initial Stages of Federal Litigation: Overview," *Practical Law Company* (June 2016); "Case Assessment and Evaluation," *Practical Law Company (*April 1, 2013); "Proof Matrix" (a tool to help assess whether a case is ready for trial), *Practical Law Company* (December 2012); "Your Witness: The Issue of Paying Fact Witnesses Most Commonly Concerns Former or Current Employees of a Party in Litigation," *Los Angeles Lawyer* (2012); "Handling Federal Litigation," *Practical Law Company* (2011); "Is Government Knowledge a Defense to False Claims Liability: A Discussion of the Role of Government Knowledge Under the California and Federal False Claims Acts," *BNA, Inc.*, *Federal Contracts Report*, Volume 84, No. 11, (September 27, 2005); "Gauging Organizational Exposure to Environmental Criminal Liability: A Comparison of the Proposed Environmental Sentencing Guidelines to the Organizational Guidelines and the Department of Justice's Revised Principles of Federal Prosecution of Business Organizations," *American Bar Association for the National Institute on White Collar Crime* (March 2004); "Proof and Pretext: *Reeves* Provides Some Clarification of the Burden-Shifting Formula in Employment Discrimination Lawsuits," *Los AngelesLawyer* (March 2004); "Seeking and Defeating Summary Judgment in Light of *Reeves v. Sanderson Plumbing Products* And Its Progeny" ALI-ABA Course of *Study-Employment Discrimination and Civil Rights Actions in Federal and State Courts*, Volume 1 (May 2003); and "Grace Under Pressure: Fifteen Steps You Should Take to Manage a Search of Your Client's Office Pursuant to a Federal Warrant" *Corporate Counsel's Quarterly* and *The Lawyer's Brief*, Volume 18, No. 3 (July 2002). He is also the co-author of "Closing Arguments," Chapter 37, *Business and Commercial Litigation Treatise*, West Publishing, (1998).

Education

Marcellus received his law degree from Harvard Law School in 1988. He earned a B.A. degree *summa cum laude* in 1985 from the University of California at Los Angeles, where he was elected to Phi Beta Kappa.

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