

2015's **TOP 100** Lawyers in California

LITIGATION

MARCELLUS A. MCRAE

GIBSON, DUNN & CRUTCHER LLP | LOS ANGELES

GOVERNMENT CONTRACTS, WHITE COLLAR DEFENSE, INTERNATIONAL TRADE

McRae brought a False Claims Act suit spanning two decades to a definitive end in May, winning a case brought against Parsons-Dillingham Metro Rail Construction Manager Joint Venture by the Metropolitan Transportation Authority. Originally filed in 1994 during the Clinton administration, the case was handed to Gibson Dunn in mid-2014. After bouncing around among firms and five judges, the suit ended in a successful summary judgement motion after less than a year.

“They said the joint venture had not disclosed their overhead calculations and methodologies for calculating overhead to MTA,” said McRae.

The win hinged on the use of key evidence showing lawful disclosure of the information under dispute, which the plaintiffs attempted to have excluded. MTA audits contained the very details that the plaintiffs claimed were not disclosed. Using this information to cut off the False Claims and nondisclosure allegation was the crux of McRae’s defensive strategy, he said.

“I want to be very exacting in terms of putting the other side to their burden of proof and persuasion, and that means I want to look at everything. If there are four points or

four elements, take a microscope to all four,” McRae said.

McRae was also co-lead counsel in the landmark *Vergara v. State of California* teacher tenure case that’s in the midst of an appeal.

On behalf of multiple students, McRae and fellow honoree Ted Boutros sued, stating that the provisions were leaving unfit teachers in the system due to a convoluted dismissal process and broken evaluation system.

“The notion that you should have, regardless of how effective you are at achieving learning gains, a job for life is demeaning to the profession,” McRae said. “You’re talking about kids who have the greatest challenges bearing the brunt of a mentality that treats schools as a job preservation site rather than a place of learning. [The case] rightly placed students back at the center of the discussion.”

>> Andy Serbe



Associated Press

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