



DAVEN LOWHURST

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Daven Lowhurst is Special Counsel at Bartko Pavia LLP in the firm's Litigation Practice. Daven's experience focuses on litigating commercial, construction, and IP disputes, negotiating and drafting commercial contracts, pursuing property and liability insurance coverage for commercial policyholders, and appellate advocacy. Daven has a proven record of finding innovative solutions to client problems by providing transactional advice on the front end and, where disputes arise, creative and efficient advocacy. Prior to joining the firm, Daven was a partner at three international law firms over three decades, most recently at Jones Day. He was part of the team recognized repeatedly by Chambers through its Award for Excellence in Construction, and has been selected as a Northern California SuperLawyer for nearly two decades in Commercial Litigation, Insurance Coverage, Construction, and Appellate Advocacy. Daven has litigated and tried numerous cases in a variety of federal and state courts and alternative dispute resolution forums, as well as successfully handled numerous appeals, several of which resulted in published decisions in his clients' favor. He has served as an arbitrator for more than 30 years, including for the California State Bar, the San Francisco County Superior Court, and the Bar Association of San Francisco. He has been a prolific writer and speaker on such topics as commercial insurance coverage, construction contracts, and indemnity issues. Daven values community service and has been on the Board of Directors of the East Bay Community Law Center for more than 25 years.

CREDENTIALS

EDUCATION

- University of California, College of the Law, San Francisco (formerly UC Hastings), J.D., Cum Laude, 1986 (Hastings 1066 Foundation Award for Scholarly Journalism; Editor Communications and Entertainment Law Journal)
- (Hastings 1066 Foundation Award for Scholarly Journalism; Editor Communications and Entertainment Law Journal)
- University of California, Santa Barbara, B.A. in Economics, Economics, Summa Cum Laude, 1983 (Omicron Delta Epsilon National Honor Society in Economics; Senior Honors Program, Department of Economics)
- (Omicron Delta Epsilon National Honor Society in Economics; Senior Honors Program, Department of Economics)

BAR ADMISSIONS

- State Bar of California

COURT ADMISSIONS

- U.S. Court of Appeals for the Ninth Circuit
- U.S. District Court for the Northern District of California
- U.S. District Court for the Eastern District of California
- U.S. District Court for the Southern District of California
- U.S. District Court for the Central District of California

RECOGNITIONS

- Northern California "Super Lawyer". Selected for nearly two decades in four categories: Commercial Litigation, Insurance Coverage, Construction, and Appellate.
- Arbitrator, California State Bar, 1990-present
- Arbitrator, San Francisco County Superior Court, 2010-present
- Arbitrator, Bar Association of San Francisco, 1995-2010
- Arbitrator, Alameda County Bar Association, 1995-2008

- Member, Board of Directors, East Bay Community Law Center, 1993 – Present
- Manager, Oakland Lawyer in the Library Program, multiple branches, 1987-2019

EXPERIENCE

- Advocated for Meta (formerly Facebook) and WhatsApp in hundreds of lawsuits throughout the world, including in India, Brazil, and Germany, and advised them on compliance with data protection regulations and product launches in various countries.
- Obtained millions of dollars in recoveries for a residential/hotel developer against a large San Francisco general contractor, various subcontractors, and property and environmental insurers in connection with major fire damage during the renovation of a San Francisco hotel.
- Recovered millions of dollars in insurance coverage for a national engineer/contractor for claims arising out of collapsed engineered freeway walls in Southern California.
- Co-counsel for MGM in pursuing billions of dollars in damages arising out of construction/engineering defects on the City Center project in Las Vegas.
- Successfully represented various Vestas companies in litigations arising out of wind turbine performance at various wind farms in the U.S.
- Co-lead trial counsel in obtaining an eight-figure award against a large real estate investment trust through a federal court jury trial on liability and bench trial on damages arising out of the sale of commercial property in connection with the Santana Row mixed-used development in San Jose.
- Co-lead trial counsel in securing a multi-million dollar settlement for IBM during closing arguments in a federal court jury trial against the manufacturer of defective components for IBM's state-of-the-art data storage devices.
- Obtained a defense verdict and large attorneys fee award, and defeated the ensuing appeal, for a large real estate developer accused of fraud in connection with a major high-rise project in San Francisco.
- Successfully overturned on appeal an eight-figure jury award against the manufacturer of aerospace components in connection with multiple explosions on the assembly line.
- Recovered hundreds of millions of dollars in insurance coverage for several major corporations in connection with product liability / mass tort litigations.

PUBLICATIONS

- “Unshrouding the Mysteries of Builder’s Risk Insurance, Part 1: Negotiating and Drafting Contractual Requirements and Pursuing Coverage for a Loss”, *The Construction Lawyer*, ABA Forum on the Construction Industry (Spring 2017)
- “Top Ten Tips for Maximizing Your Company’s Insurance Assets”, MCLE University, Palo Alto (January 2017)
- “Insurance Coverage Best Practices from the Policyholder Perspective”, *Edison Electric Institute, Contract Drafting Committee Meeting* (August 2016)
- “Unshrouding the Mysteries of Builder’s Risk Insurance, Part 2: The Basics and Beyond”, *The Construction Lawyer*, ABA Forum on the Construction Industry (Summer 2016)
- “Will Your Excess Insurer Protect You When You Use Up Your Primary Insurance?”, *Risk Insider* (2016)
- “What to Know about Liability and Legal Costs Arising from the Development and Use of Mobile Device Applications”, *Insurance Journal* (July 2016)
- “Insurance Coverage Fundamentals and Best Practices – What In-House Counsel Needs to Know to Manage Risk on the Front End and After a Loss or Claim”, *MCLE University*, San Francisco (January 2016)
- “Insuring Construction Projects: Coordinating Key Coverages and Avoiding Pitfalls on Both Ends of the Job”, *MCLE University*, Los Angeles (January 2014)
- “West Virginia’s Take on the Scope of CGL Insurance in Defective Construction”, *Law360* (2013)
- “Absolute Pollution Exclusions Aren’t Always Absolute”, *Insurance Policyholder Advocate* (July 2013)
- “‘It’s a Wrap!’ Insuring Construction Projects Through OCIPs an CCIPs”, Part 3, *Insurance Policyholder Advocate* (May 2013)
- “California’s New Subcontractor Defense Regime for Non-Residential Projects: Creating Order or Chaos?”, *Jones Day White Paper* (May 2013)
- “‘It’s a Wrap!’ Insuring Construction Projects Through OCIPs an CCIPs”, Part 2, *Insurance Policyholder Advocate* (April 2013)
- “Navigating the Treacherous Waters of California’s Expanded Anti-Indemnity Laws for Construction Projects”, *Jones Day White Paper* (April 2013)

- “‘It’s a Wrap!’ Insuring Construction Projects Through OCIPs an CCIPs”, Part 1, *Insurance Policyholder Advocate* (March 2013)
- “The ABCs of Insuring a Construction Project”, *MCLE University*, Los Angeles (January 2013)
- “Current Trends in CGL Coverage for Defective Construction”, *International Risk Management Institute (IRMI)*, *CGL Reporter* (Spring 2012)
- “Insurance Coverage for Defective Construction”, *MCLE University*, San Francisco (January 2012)
- “Understanding Construction Insurance”, *New Appleman Insurance Law Practice Guide*, Chapter 30A (2011)
- “Wrap It Up, I’ll Take It: The Risks and Rewards of Wrap Programs on Construction Projects”, *Risk – Legal Issues in Insurance Recovery and Construction* (2010)
- “Be Careful What You Wish For: The Insurer’s Right to Settle Your Case Without Your Consent”, *Construction WebLinks* (April 2003)
- “California Supreme Court Imposes Strict Liability on Defective Components Installed in Tract Homes”, *Construction WebLinks* (December 2002)
- “Preventing a Buss or Aerojet Crash: How to Avoid Being Sued by Your Insurer for Reimbursement of Defense Costs”, *Business Insurance* (2001)
- “Reimbursement Disputes Can Be Avoided”, *Business Insurance* (1998)
- “Construction Defects Litigation Hot Topics”, *CEB State Bar Real Property Law Section Journal* (1998)
- “The Crime-Fraud Exception to the Attorney-Client Privilege and Work Product Doctrine”, *California Litigation Journal* (1993)
- “When Is an Attorney Not an Attorney? Privilege and Work Product Problems for Corporate Attorneys Wearing Many Hats”, *CEB Cal. Business Law Practitioner Journal* (1990)
- “Damage Control Investigations”, *CEB Cal. Business Law Practitioner Journal* (1989)

AREAS OF FOCUS

PRACTICES

Intellectual Property

Litigation

