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LAW FIRM BUSINESS

Ties that Bind

One of the largest contingency-fee plaintiffs-side firms in Los Angeles, McNicholas & McNicholas is built on a big family with a common set of values and goals.

By Deirdre Newman
Daily Journal Staff Writer

LOS ANGELES — For trial firm McNicholas & McNicholas LLP, law is a family affair.

The 22-year-old plaintiffs' firm was founded in 1993 by patriarch John P. McNicholas, 78, and his son, Patrick, 54. Ironically, John McNicholas was a defense attorney who had only done a small amount of plaintiffs' work until Patrick McNicholas enticed him to join the other side. He hasn't looked back since.

"It seemed attractive because you can help people and make a decent living," John McNicholas said, even though at the time his defense attorney colleagues thought he was crazy, he joked.

All in all, there are seven McNicholas children, many of whom have worked for the firm. Patrick McNicholas' brother, Matthew McNicholas, is currently a partner, while their sister, Courtney McNicholas, worked at McNicholas for about five years. The firm currently has nine attorneys, with another slated to come on board in September.

One of John McNicholas' proudest successes was representing the Isley Brothers in a copyright infringement case against Michael Bolton, which resulted in a \$5.4 million judgment in favor of the Isley Brothers.

He also represented the Vatican Library, traveling to Italy more than 20 times over five years. The library was accused of breaches of licensing agreements to exploit the works of the library museum. One of his prized pieces of memorabilia is his retainer from the Holy Father.

One of John McNicholas' current cases is a class action pending before the U.S. Equal Employment Opportunity Commission against the U.S. Postal Service on behalf of employees with disabilities who are not accommodated in the L.A. postal district.

John McNicholas said his passion for trial work keeps him going as he nears 80 years old. "You gotta be crazy to do trial work, but it's the best job I've ever had and I'm not quitting."

Patrick McNicholas' areas of expertise include personal injury, employment and class action. One of his most rewarding victories was representing a female Los Angeles Metro police officer, Nina Damiankis. She had tried to be the first female member of the SWAT team twice and was denied both times. McNicholas brought a discrimination lawsuit on her



Alexander Drecun/Special to the Daily Journal

Matthew McNicholas, left, with his brother Patrick McNicholas, center, and father John McNicholas of L.A. trial firm McNicholas & McNicholas LLP.

behalf against the police department, and she was awarded a \$2.3 million verdict and given an offer to join the SWAT team.

"I thought it was significant because it was a discrimination case and she was breaking barriers and it demonstrated to the other officers that there was opportunity for everyone, irrespective of race, creed or gender," Patrick McNicholas said. "It also helped to move the needle generally on a societal level that everyone has to be accepted on merit, not on whatever class they fall into."

Matthew McNicholas splits his practice between whistleblower and retaliation cases, which mostly involve police officers and firefighters, and personal injury and products cases. The challenge with the whistleblower and retaliation cases is obtaining the evidence and then ferreting out what he needs to prove his case, he said.

"When I'm suing the Los Angeles Police Department, the department creates its own paper trails, does its own investigations, and polices itself, so I have to rely on them to turn things over," he said. "That can be very challenging."

One of his most rewarding victories was getting former LAPD officer Sergio Arreola reinstated — the first time he's ever seen that happen, he said. Arreola was a probationary officer recruit who was a victim of excessive force by the Pomona Police Department while he was off-duty helping his wife with a flat tire. As a result of the incident, Pomona filed a police report informing the LAPD that Arreola

was disruptive, and he was later fired by the department.

Matthew was able to get Arreola reinstated and secured a \$700,000 settlement with Pomona after a federal jury trial. His winning strategy was to sync the audio from one officer's recording device with the video from a different officer's vehicle and compare it to the arrest report to find holes in the police department's case.

"It made me feel happy about what I do," Matthew said. "Here was a young kid with a young wife, starting his new job after being in the Marines for four years in Iraq, and his life was derailed. Now, he's back on the force, doing a great job, doing what he loves. That's just awesome."

Matthew McNicholas also has the distinction of being the youngest Fellow of the American College of Trial Lawyers, where John McNicholas and Patrick McNicholas are also Fellows. He joked that as the last of seven children, he's always been the youngest at almost everything. Still, he said he was flattered to be invited into an organization that reveres formality.

"I thought it was a great honor," Matthew McNicholas said. "A lot of formality and civility [in the practice of law] is waning, if not gone. I think this organization promotes that and it's greatly respected by the bench and bar as an organization of the highest level."

Both John McNicholas and Matthew McNicholas went to Loyola School of Law in Los Angeles, where John McNicholas serves on the Board of Overseers. Matthew

McNicholas was inspired to create a scholarship at the school to give one law student an internship at the law firm each summer. The goal is to expose these scholarship recipients to a plaintiff's practice before they automatically gravitate to high-paying, non-contingency-based firms.

The new attorney expected to start at the firm in September will be fresh out of Loyola. This law student approached Matthew McNicholas and told him he would work "his butt off to bring the firm cases," Matthew McNicholas said, noting how essential it's become to hustle — both in finding a job at a law firm and in obtaining cases.

"This young man came to me, pitched himself not only as a lawyer, but as a kid who is ready to hustle. That's who I want working for me."

As plaintiffs' law firms work on referrals by design, it is a constant challenge to get business, John McNicholas and Matthew McNicholas said. Matthew McNicholas has been instrumental in getting Loyola to add business development as a requirement of the law school curriculum.

There have been other challenges since the firm's inception. The recession was tough, Matthew McNicholas said, and the practice of trial law still feels the repercussions. The recession affected the plaintiffs' firm in a few ways. First, the requirements for lines of credit changed as a result of the banking regulators cling down on the financial sector. Second, everyone was so spooked that defendants were not as eager to settle unless it was at a severe discount. And third, the closing of so many courts due to budget cuts meant no more fast-tracking of cases. For example, LAPD employment cases used to take about 10 to 14 months to resolve now it's more like two to two-and-a-half years, Matthew McNicholas said.

And there's the constant challenge that all law firms face: balancing the overhead while having enough attorneys to represent clients. "We've done a pretty good job of it for the last 22 years, but you gotta keep looking forward," Matthew McNicholas said. Their family firm is one of the largest contingency-fee firms in Los Angeles, he added.

Working together as a family can either make or break you, Patrick McNicholas said. Fortunately for this firm, it's the former.

"All of our values and priorities are in line, so at the end of the day, any grievances or disagreements fall away based upon a common goal and affinity for each other," Patrick McNicholas said.