



David A. Shimkin

Member

Los Angeles

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Practice Areas

- Strategic Risk & Complex Litigation
- Product Liability
- Appellate & Supreme Court
- Insurance Coverage

Industry Sectors

- Food & Beverage
- Insurance
- Real Estate & Construction

Education

- Cornell Law School, J.D., 1997
- Columbia University, B.A., 1993

Bar Admissions

- California
- New Jersey
- New York

Court Admissions

- U.S. Supreme Court
- U.S. Court of Appeals for the Second Circuit
- U.S. District Court -- Central District of California
- U.S. District Court -- Eastern District of California
- U.S. District Court -- Northern District of California
- U.S. District Court -- Southern District of California
- U.S. District Court -- Eastern District of New York
- U.S. District Court -- Southern District of New York

Affiliations

- Hispanic National Bar Association

David focuses his litigation practice on representing clients in the hospitality, construction, and transportation fields, including trucking companies involved in interstate and intrastate claims. David has also handled product liability cases involving life science matters for medical device manufacturers. David co-chairs the firm's Food and Beverage Team and is experienced in the defense of cases involving alleged food contamination and liquor liability. David has also defended clients against claims brought under California's Proposition 65 for alleged exposure to certain toxins. David has extensive experience in defending class actions and handling toxic exposure and contamination cases involving both property damage and bodily injury claims. David has also handled fire damage cases. He has also defended errors and omissions and professional liability claims brought against officers of closely held and public companies, accountants, and other professionals. He has also defended cyber-security breach, intellectual property, and trade secret claims. David was an adjunct professor at New York Law School and sits on the board of a major nonprofit organization.

Additionally, David is the chair of Cozen O'Connor's Diversity, Equity and Inclusion Committee and formerly co-chaired the Hispanic Attorney Resource Group.

David started his career as an assistant district attorney in the Bronx, where he argued appeals, including in the U.S. Court of Appeals for the Second Circuit. He also tried misdemeanor and felony cases. More recently, he has tried civil cases in both state and federal court.

David was a John Kluge Scholar as an undergraduate at Columbia University. He earned his law degree from Cornell Law School, where he was a general editor of the *Cornell Journal of Law and Public Policy*, and received a certificate of specialization in Public Law.

David was chosen as a 2013 Rising Star by the *New York Law Journal*. The panel reviewed more than 200 nominations of young lawyers who have established a record of accomplishments and demonstrated that they are top contributors to the practice of law as well as to their communities. David was among the 44 attorneys with the highest ratings.

Experience

Obtained a favorable jury verdict in an emotionally charged trial in Santa Cruz County on behalf of a hotel whose employee assaulted a minor guest. We first obtained a directed verdict on the plaintiff's vicarious liability claim, and then the jury found our client to be only 25 percent liable for negligent hiring, resulting in an assessment of only \$585,000 in damages, where the plaintiff sought \$50 million.

Secured a defense verdict after four-week trial in Los Angeles County in a case stemming from an accident the plaintiff alleged was caused by our trucking industry client's driver. The plaintiff sought more than \$10 million in damages, liability was hotly contested, and we precluded the plaintiff's liability expert from offering certain evidence at trial. After three days of deliberation, the jury found that our client was not negligent.

Secured a favorable verdict after five-week jury trial in a catastrophic injury case into which we were brought less than a month pre-trial. The defense team had many hurdles to overcome, including a taped admission of liability; two admissions of liability for the accident at issue during the deposition of the

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client's employee; and the concurring opinion of a defense-appointed medical examiner that the double level cervical fusion one of the plaintiffs required, and which carried a projected \$9,000,000 price tag in past and future medical bills, was causally related to the accident. After almost four days of deliberations, the 12-person jury delivered a verdict for all five plaintiffs that totaled \$3.7 million -- a fraction of the \$43 million sought.

Successfully represented a manufacturer of nail polish strips in an investigation by the New Jersey Occupational Safety and Health Administration (NJ OSHA) that was launched after a worker was severely injured in the company's manufacturing plant while using heavy machinery. We persuaded NJ OSHA to not issue any citations or fines related to the accident.

Successfully represented a manufacturer and distributor of nutritional shakes and supplements in a San Diego-based purported class action centering on a claim that the company's marketing of its products was misleading and in violation of various consumer laws. We removed the case to federal court, and eventually the case settled on an individual basis.

Co-tried and won a defense verdict in a personal injury case in which the plaintiff, a laborer working on a demolition project, sustained serious fall-related injuries. We represented both the property's owner and the demolition project's general contractor, and successfully disputed the plaintiff's description of the incident, impeached him with prior statements, and precluded his use of a key witness's sworn deposition testimony.

Co-tried and won a defense verdict on behalf of a hospitality industry client in a personal injury case involving the same burn expert who testified in the infamous McDonald's hot coffee case. The jury returned a defense verdict after less than a day of deliberation.

Represented a major national manufacturer in a multi-million-dollar construction defect matter in San Francisco. Brought into the case mere weeks before trial, the Cozen O'Connor team managed to perform diligent discovery and skillful cross-examination to demonstrate to the jury that the plaintiff's cost estimates were grossly exaggerated. The case settled after 5 weeks of trial.