

Devan McCarty

Sacramento, California
Special Counsel

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Areas of Practice & Industry Specialties

Dispute Resolution; Litigation; Health Care Law



Devan McCarty is Special Counsel and a member of the Litigation and Health Care Practice Groups in the Firm's Sacramento office. His clients include hospitals, hospital systems, trauma centers, physician groups, and emergency department physicians. Mr. McCarty represents health care clients in a wide range of disputes involving reimbursement of health care services, including disputes arising out of hospital system and health plan managed care contracts, leased network PPOs, and administrative services contracts. Mr. McCarty has experience in handling large claims sets, and routinely utilizes statistical sampling to efficiently and effectively resolve disputes involving a large volume of underpaid claims. These disputes often involve clinical and coding issues, and Mr. McCarty is experienced in working closely with subject matter experts. Mr. McCarty litigates in both state and federal court, as well as in private arbitration proceedings. Mr. McCarty also has extensive experience with disputes related to the reimbursement for services by non-contracted health plans, studying the unique economics and financial structure of the health care market. Mr. McCarty's work also includes class actions related to the pricing and billing of health care services.

Mr. McCarty's work includes issues related to reimbursement by commercial payers, Medicare Advantage plans, and Medicaid managed care plans. Mr. McCarty's work often focuses on addressing the intersection of clinical and reimbursement issues, and he has extensive experience working with large data sets of clinical and financial information.

Most recently, Mr. McCarty was recognized as one of *Sacramento Magazine's* Top Lawyers in the field of Health Care Law.

Representative Matters

Reimbursement/Managed Care Disputes

- Represented hospital clients in breach of contract actions for recovery of underpaid claims for hospital services, addressing issues related to medical necessity, coding, authorization, delegation, among others. These matters have resulted in recovery of many millions of dollars.
- Successfully represented Hospital System in dispute regarding unpaid and underpaid emergency claims, resulting in significant financial recoveries.
- Represented providers in disputes regarding health plan's post-termination payment obligations, including enforcing statutory and regulatory Continuity of Care requirements.
- Represented Hospital System in disputes involving obligations of third party payers, including application of the Silent PPO Statute.
- Represented Hospital System in recovery of over \$1 million for emergency services provided to members of non-contracted Medi-Cal managed care plans.
- Represented Medical Group in dispute regarding Medi-Cal reimbursement for E&M and vaccinations.
- Represented County Medical Services Program in issues related to payment of substance abuse

services.

Managed Care Advice and Counsel

- Advised hospital clients in drafting and negotiating in-network managed care agreements and leased network agreements.
- Assisted hospital clients with development of policies and procedures for implementation of utilization management requirements.
- Counseled hospital clients on expansion of Medi-Cal reimbursement through implementation of hospital tax to increase federal matching funds.
- Represented Hospital System in work groups with the Department of Health Care Services for development of Medi-Cal rates.
- Represented client in due diligence regarding the value of managed care accounts receivable in potential health care acquisition.

Business/Commercial Litigation

- Represented Medical Group Board Members in corporate governance dispute, protecting the interest of the entity against attempts by minority shareholder to take control.
- Obtained dismissal for Psychiatric Hospital in lawsuit regarding the allegation of wrongful involuntary psychological hold.
- Represented Hospital System in issues related to agreement with county to maintain access to hospital services.

Publications

- Non-contracted Providers Must Exhaust Administrative Remedies for Medicare Advantage Claims, *Buchalter Client Alert*, May 12, 2022

Education

Devan McCarty received his undergraduate degree from Santa Clara University and his J.D. from Santa Clara University School of Law.

Bar Admissions

- California

Court Admissions

- United States District Court for the Eastern District of California
- United States District Court for the Northern District of California
- United States District Court for the Southern District of California