



Daniel I. Aquino, Of Counsel

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Areas of Practice

Employment & Labor Law

Commercial & Complex Litigation

Bar Admissions

Nevada, California

Education

- J.D., *cum laude*, University of California College of the Law, San Francisco (formerly University of California, Hastings College of the Law), 2012
- B.A., University of California, Los Angeles, Philosophy, 2008

Daniel Aquino is Co-Chair of McDonald Carano's Employment & Labor Law Practice and is a member of the Commercial & Complex Litigation Practice.

Mr. Aquino handles a wide variety of litigated employment law matters, including wage and hour disputes, employment discrimination, wrongful termination, and breach of contract claims proceeding in state and federal courts. He also routinely represents employers in proceedings before local, state, and federal administrative agencies and boards. Mr. Aquino handles cases through all phases of litigation, and has first-chaired bench and administrative trials, as well as private arbitrations.

Mr. Aquino provides preventive advice and daily operations-focused guidance to employers on a variety of topics, including personnel actions, non-compete agreements, compliance with wage and hour law, and employment contracts. He has worked extensively with employers of all sizes in a wide range of sectors, including hospitality, entertainment, higher education, healthcare, financial services, retail, gaming, construction, and manufacturing.

Mr. Aquino's litigation experience includes business contract disputes, negligence, premises liability, and professional liability matters. He has successfully represented clients in appeals before the Nevada Supreme Court and Ninth Circuit Court of Appeals. Mr. Aquino's Nevada Supreme Court experience includes a published opinion in *McClendon v. Collins*, 132 Nev. Adv. Op. 28 (2016).

Prior to joining McDonald Carano, Mr. Aquino was a partner at a regional general litigation law firm and a senior associate at an Am Law 100 employment and labor law firm.

Representative Engagements

- First-chaired bench trial in breach of contract action involving apportionment of liquidated damages to subcontractor client on a construction project to upgrade a large water reservoir; obtained Court's rejection of general contractor's assessment of liquidated damages and award of client's full requested damages, plus substantial prejudgment interest, attorney's fees, and costs
- Represented Fortune 10 company in defense of employee whistleblower retaliation claim, first-chairing two-day arbitration hearing resulting in defense award
- First-chaired bench trial on behalf of higher education institution seeking injunctive relief against former employee, resulting in issuance of protective order against former employee for maximum period allowed under Nevada law
- Defended international construction company in hybrid Rule 23 and FLSA collective action involving alleged employee misclassification, overseeing internal investigation, opposing conditional certification (resulting in plaintiffs voluntarily narrowing a large subset of class), coordinating class discovery production, and obtaining plaintiffs' agreement to mediate individual claims
- Represented hotel and casino client in FLSA collective action for alleged violation of federal tip pooling law, successfully negotiating settlement at mediation
- Represented Nevada operations of global restaurant group in Rule 23 class action for alleged failure to comply with Nevada's daily overtime requirements, successfully negotiating class settlement at mediation
- Litigated action involving gender discrimination, Equal Pay Act, and breach of contract claims brought by former financial executive of multi-national manufacturing company, negotiating settlement for fraction of multi-million dollar demand
- Obtained dismissal of complaint for trademark infringement and cybersquatting claims against California business client based on lack of personal jurisdiction in Nevada federal court
- Successfully briefed Nevada Supreme Court in appeal involving work product confidentiality where expert is de-designated, resulting in published Nevada Supreme Court opinion (*McClendon v. Collins*, 132 Nev. Adv. Op. 28 (2016))
- Successfully briefed U.S. Court of Appeals for the D.C. Circuit in appeal involving termination of engineer for refusing to comply with procedure for mandatory respirator fitting, obtaining reversal of the NLRB's decision that hotel and casino client's personnel actions violated the NLRA

Awards and Recognition

- *Vegas Inc* – “Top Lawyers” in Employment and Labor Law (2023)
- *The Best Lawyers in America* – “Ones to Watch” in Employment & Labor Litigation, Appellate, and Commercial Litigation (2023, 2024)
- *Mountain States Super Lawyers Magazine* – “Rising Star” (2022-2023) (Dan is one of only six “Rising Star” attorneys recognized in Employment Litigation Defense in the entire five-state Mountain States region and is one of only three on the list from Nevada.)

Publications

- Quoted, “Practice Area Snapshot: Convergence of COVID Fallout and Other Factors Fuel Labor & Employment Law,” *Of Counsel: The Legal Practice and Management Report*, July 2023
- Author, “Nevada Court Rules Employees Turning Computers On and Off is *De Minimis* and Not Compensable,” *McDonald Carano Legal Update*, June 12, 2023
- Author, “Nevada Supreme Court Rules Employees May Sue Employers for Failure to Accommodate Medical Marijuana Use,” *McDonald Carano Legal Update*, January 25, 2023
- Quoted, “When Is an Immediate Firing Justified?” *SHRM.org*, October 27, 2022
- Author, “Employee Misconduct, Poor Performance, Discipline, and Termination in the Workplace,” *Las Vegas Sun*, September 12, 2022
- Author, “Nevada Supreme Court Rules Employee’s Off-Duty Recreational Marijuana Use Not Protected Under “Lawful Use” Law,” *McDonald Carano Legal Update*, August 24, 2022
- Author, “Employee Misconduct, Discipline, and Termination: Five FAQs for Employers,” *McDonald Carano Legal Update*, August 1, 2022
- Author, “Nevada’s New Employment Laws: New Do’s and Don’ts for Retail Employers,” *Nevada News* published by the Retail Association of Nevada, July 2021.

Speaking Engagements

- “Employment Law Priorities for In-House Counsel,” Association of Corporate Counsel, February 15, 2024
- “Best Practices for the Higher Education Workplace,” College of Southern Nevada, Las Vegas, NV, August 2022
- “Wage and Hour Issues,” National Business Institute, Las Vegas, NV, September 2019
- “Nevada Employment Law,” National Business Institute, Las Vegas, NV, September 2019
- “Unconscious Bias in the Workplace,” Nevada Labor & Employment Law Symposium, Las Vegas, NV, February 2019
- “Navigating the Modern ‘Gig Economy’: Worker Classification Challenges in a Changing Landscape,” Association of Corporate Counsel, Nevada Chapter, Las Vegas, NV, January 2019

Professional Affiliations

Member, Society for Human Resource Management

Community Engagement

Legal Aid Center of Southern Nevada, Pro Bono Attorney Volunteer (representing low-income clients in family law and Children’s Attorneys Project matters)

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