

**CLOSE-UP: JOHN F. 'MICKEY' MCGUIRE JR.**

## Attorney helps victims of 'unnatural disasters'

By Glenn Grant, Special to The Daily Transcript

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Even at a young age, John F. McGuire was a good guy to have in your court.

A partner with San Diego-based plaintiff attorneys **Thorsnes Bartolotta McGuire LLP**, "Mickey" McGuire learned how to hustle around the basketball court as a ball boy for the New York Knicks. Still in elementary school, he was under the watchful eyes of his uncles, Knicks guards Dick and Al

McGuire, the only pair of brothers ever inducted into the Naismith Memorial Basketball Hall of Fame.

The experience served him well. For the past 35 years, McGuire has kept his eye on the ball for thousands of his clients who have been affected by unfortunate circumstances.

"I practice many types of law, but the type of case I seem to be involved with more often than not involves what I call unnatural disasters: mobilized ancient landslides, wildfires ignited by manmade conditions, earthquake damage to structures," he said.

"It's not that the earthquake is unnatural, it's that the structures that are built to prevent catastrophic failure in an earthquake sometimes have catastrophic failures. These involve contractors, developers, and governmental entities that involve inverse condemnation recoveries. They can and have involved entire subdivisions."

McGuire's introduction to unnatural disasters came soon after he joined the firm in the 1970s. A developer disregarded and hid a soils engineering report that located and identified ancient landslides. The development included approximately 100 homes built on pads that were manufactured by cutting away the stabilizing toe of an ancient landslide formation in the Oak Hills neighborhood of Santee.

"The county was building out and these kinds of

developments were being built up into the hillsides rather than on flat or natural ground,” McGuire said.

“The county had gone through a wet cycle that, in combination with cut slopes into the toe of the slides, caused them to start to move slowly downhill -- even though they had been stable for thousands of years before. It’s kind of like an iceberg on the side of a hill that has its downslope stability eroded by warm weather. This was the first time that residents had experienced this type of phenomena.

“If you cut the bottom of an ancient landslide and scrape that soil away to make a building pad, you now have a vertical surface at the bottom of the slide that greatly reduces its stability. That’s why it’s an unnatural disaster.”

When the landslide happened, McGuire’s firm was contacted and asked what could be done. “At the time, I really didn’t know anything about ancient landslides,” McGuire said. “I just knew that this didn’t seem right. We kept looking at causative features, and we found them. It was almost 100 families. It was kind of thrilling to represent that many people who had no place else to go.”

Other cases followed, and in 1995 McGuire represented about 75 residents of La Conchita, a Ventura County town built at the bottom of another ancient landslide formation. The owners of the property above the town had developed a large commercial orange grove that required massive amounts of water.

Over time, the saturated irrigation and storm water caused the hillside behind La Conchita to slide into town. No one was killed, but many homes were buried, especially close to the slide, McGuire said. He resolved that case and all plaintiffs were paid the full value of their property. However, the property owner was not required to stabilize the hillside, and most residents were asked -- but not required to -- leave town. Another landslide followed in 2005, killing 10 people.

McGuire has monitored the recent situation in Oso, Wash., where a March 22 mudslide resulted in at least 41 deaths. He said loose soil may be the cause of the tragedy.

“These kinds of mud flows are usually naturally caused,” he said. “So it would be difficult for me to determine, from what is known from newspaper and radio reports, whether man is responsible for the movement, because there is no information that construction or other man-initiated activity was involved.”

McGuire, who is licensed to practice law in California and Arizona, said he will travel to represent clients, but prefers to live and work in San Diego. The New York native is the oldest of eight siblings, father of six and grandfather of eight. He’s an avid surfer and big-wave body boarder.

On the community side, he became a President’s Circle member of the San Diego Burn Institute after representing clients with severe burns. He also is member of the Ireland

Fund and works with his firm to raise funds for the Los Niños Orphanage in Mexico.

His advice for anyone considering legal action in a disaster-type situation:

"1. Get very good experts. 2. Invest in knowing the facts before you leap. 3. You need to know what your damages are right from the beginning -- are you going to repair or are you going to use the loss-of-market-value measure of damages? You need to know both because of the 'lesser-than rule' which limits plaintiffs' recovery to the loss of market value or the cost of repair, whichever is less," McGuire said.

"But there is an exception to that rule. If the plaintiff has a present intent and an actual desire to make repairs that are more expensive than the loss of market value, then they are allowed to make those repairs that are necessary to make them whole.

"This is a mixed question of fact for the jury and law for the court to resolve. It's a question of facts for the jury to determine whether they have this actual intent and present desire, and if they do, the judge will instruct them they can award reasonable damages based on the evidence."

And his final piece of advice: "No email after 5 p.m.!"