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**Professional Biography of Thomas M. Diachenko**

Thom Diachenko is a former Pediatric ICU Nurse and a civil trial attorney since 1989. He has specialized in litigation of professional (primarily medical) malpractice, general negligence/personal injury, wage and hour, and employment law. Thom received his Bachelor of Science in Nursing from Boston University School in 1981 and his Juris Doctorate from the University of San Diego School of Law in December of 1988, was a member of the San Diego Law Review and graduated *cum laude*.

From 1981 to 1988, Thom worked as a pediatric nurse primarily in the intensive care unit. He is a licensed registered nurse who has worked in acute inpatient clinical settings at Boston City Hospital, Newington Children’s Hospital, Yale-New-Haven Hospital and San Diego Children’s Hospital. He was certified in Advanced Cardiac Life Support (American Heart Association), as an Instructor of Cardiopulmonary Resuscitation (American Heart Association), and as a Trauma Nurse (San Diego Children’s Hospital). Thom also worked as a Pediatric Nursing Educational Instructor, Emergency Transport Nurse and Trauma Nurse.

During his first 12 years of litigation practice, the vast majority of Thom’s professional legal career was spent representing health care providers in medical malpractice actions in San Diego. Since 2001, Thom has represented people who were severely injured or families in wrongful death cases, involving the negligence or intentional acts of others. In recent years, Thom’s practice has primarily focused on employee rights with emphasis on wage, employment practices, wrongful termination, discrimination and sexual harassment. Thom has developed a significant level of experience with Private Attorney General Act claims for violations of California labor laws for which other lawyers routinely consult with him. Thom has tried over 20 cases in his career. These trials have included general negligence, medical malpractice, wage, employment matters for both defendants (early in his career) and plaintiffs (later in his career) in *all three* *separate* practice areas. Thom has successfully tried four PAGA cases with PAGA claims. Thom has also successfully obtained several precedent setting appellate court decisions involving medical malpractice and wage issues.

Thom has received extensive mediation training including from the Strauss Institute for Dispute Resolution at the Pepperdine Caruso School of Law. He is currently focusing his practice on transitioning to mediation, PAGA/wage expert evaluations and consultations.

Highlights of Thom’s legal career include the following:

**COMMUNITY SERVICE:**

* Long-standing member of the San Diego County Bar Association and the Consumer
* Long standing member of the Consumer Attorneys of California (CASD), where he also served as a member of board for several years
* Column editor for *Trial Bar News* since 2012, authoring articles for litigators
* Past associate with the Welch and Enright Inns of Court programs
* Past Executive Board Member of the Enright Inns of Court
* Past Board Member of Deaf Community Services
* Past Board Member for the University of San Diego Law School Alumni
* Longstanding volunteer for San Diego Inns of Court Trial Practice Program (as a workshop leader training San Diego’s less experienced attorneys for trial) from 2016-Pesent.
* Past California Western Community Outreach Program Volunteer
* California Bar approved MCLE provider

**RECENT PROFESSIONAL AWARDS/RECOGNITION:**

* 2020 CASD Trial Star Award for trial results involving misclassification, wage, the PAGA and sexual harassment
* 2019 CASD Advocate of The Year Award for trial and appellate success on behalf of low wage workers with individual and PAGA claims
* 2015 CASD President’s Award – for the Lawyer Mentor Program
* Listed annually as a “San Diego Top Lawyer” in San Diego Magazine
* List annually as having the “Highest Rating” among his peers for competency and ethical standards in Martendale – Hubble Attorney Directory

**INVITED GUEST SPEAKER FOR LEGAL AND MEDICAL PROFESSIONALS:**

* San Diego Children’s Hospital
* UCSD Medical Center
* Palomar Pomerado Hospital District
* San Diego County Bar Association
* California Western School of Law
* National Employment Lawyers Association
* California Employment Lawyers Association
* San Diego Lawyer Referral & Information Services
* Consumer Attorneys of San Diego
* Bridgepoint Legal Education

**SUCCESSFUL APPEALS/WRITS**

* ***Atempa et. al., v. Pedrazzani et al.* (2018)** **27 Cal.App.5th** **809**–trial court verdict in wage/PAGA case upheld. (Thom represented employees in a Wage & Hour/PAGA case).
* ***Meoni v. Vleugels, et al.* (2012)** **D058306** – writ reversing lower court decision of anti-SLAPP motion. (Thom represented plaintiff in medical malpractice case).
* ***Woodhams v. Superior Court* (2011)** **D049910** – writ reversing lower court decision re defense exams. (Thom represented plaintiff in a medical malpractice case).
* ***Brown v. Superior Court* (1990)** **224 Cal.App.3d 989** – reversal of lower court summary judgment ruling. (Thom represented the physician/defendant in a medical malpractice case).

**\*COURT TRIALS:**

* ***Graves v. UCSD Medical Center, et. al.*** (Filed 1989***)*** SDSC Case No. 618404 - Defense of MedMal Case - Co-Tried (second chair) with Marilyn Moriarty - Tried To verdict - Defense Verdict.
* ***CAP v. UCSD Medical Center*** - (Filed 1991) SDSC Case No. 646581 (MedMal - Defense of indemnification claim) Co-tried (second chair) to verdict with Doug Reynolds as lead trial counsel - Defense Verdict.
* ***Navarro v. Tri City*** (Filed 1991) - SDSC (North County) Case No. N53236 - Defense of MedMal - Co-tried (second chair) to Marilyn Moriarty - Tried To Verdict - not there for entire trial - Defense Verdict.
* ***Shega v. Lewis D'Amato, Gogo, et. al.*** (Filed 1993) SDSC Case No. 666185 - Defense of Legal Malpx Claim -Co-Tried Representing Two Defendants - Tried to Verdict
* ***Rodriguez, Berger, et. al. v. UCSD Medical Center, Kung, Montoya*** (Filed 1995) SDSC Case No. 693488; Recall co-tried with Doug Reynolds.
* ***Bullard, et. al. v. Wu, UCSD, Regents, et. al.*** (1995) SDSC Case No. 688102, Defense of

MedMal - Solo Trial Counsel - Plaintiff dismissed case after cross examination of Plaintiff.

* ***Corbisez v. Wal-Mart*** - (Filed 1997) General Negligence, Personal Injury for Plaintiff, SDSC, East County, Case No. EC14956 Co-Tried to verdict with Rich Williams.
* ***Quach v. Du*** (Filed 11/7/2005) SDSC Case No. GIC856562. Sole Trial Counsel- Defense of Personal Injury Case (No worker's Comp) Tried to verdict- Plaintiff recovered ~$5,000, which was small fraction of amount sought..
* ***Cindy Sinclair v. BeckMD***- SDSC Case No. GIC807123, MedMal For Plaintiff-Jury Trial -To Verdict - Sole Trial Counsel - Defense Verdict.
* ***O' Patry v. Murphy, Rife*** (Filed 3/7/2007), SDSC Case GIC881411 : General Negligence for Plaintiff, Sole Trial Counsel Tried in 2008 -To Verdict.
* On the Cross-Action entitled: ***Ghadrdan v Flamingo Car Group (***Bench Trial in 2007) Wage & Hour Case, Sole Trial Counsel- Decision in favor of my client- Cross-Complainant.
* ***Figueroa, et al v ROADONE, et al*** SDSC Case No. 37-2010-00088352-CU-OE-CTL, 3 week jury Trial. Represented seven Plaintiffs in individual Wage & Hour claims, Lead Trial Counsel, Trial in 2013- to Verdict, Plaintiffs’ Verdict.
* ***Cardenas v. Heyden Landscape, et. al***., SDSC Case No. 37-2012-92699-CU-WT-CTL. Bench Trial in 2014, Judge Wohlfeil. Represented Plaintiff in Wage & Hour, Lead Trial Counsel; Decision in favor of Plaintiff.
* ***Atempa et. al. v. Pedrazzani and PAMA Inc.,*** SDSC Case No. 37-2013-00058208-CU-OE-CTL. Two- week bench trial, Judge Wohlfeil in 2015 (PAGA +1). Represented Plaintiff Wage & Hour. Lead Trial Counsel; Decision in favor of Plaintiff. Affirmed on appeal in published decision, ***Atempa et. al. v. Pedrazzani*** (2018) 27 Cal.App.5th 89.
* ***Dennuccio v. Invicta and Inamura***, SDSC Case No. 37-2024-00018885-CU-CO-CTL. Trial in 2015, Judge Taylor. Represented Plaintiff in individual Wage &Hour case. Decision in favor of Plaintiff.
* ***Horton, et. al. v. Trident Society, et. al.***, SDSC Case No. 37-2016-00039356-CU-OE-CTL. Four-week PAGA+2 (wage/PAGA/sex harassment) bench trial in 2019 with Judge Wohlfeil. Decision in favor of Felicia Horton and other aggrieved employees recovering a total of over $4.3 million.
* ***Cubias, et. al. v. Protein for Pets, et. al***., SDSC Case. No. 37-2016-00045232-CU-OE-CTL. PAGA+1 (wage/PAGA) bench trial in 2019, Judge Taylor. Represented Plaintiff in Wage & Hour/PAGA case. Case settled in favor of Plaintiffs after cross-examination of defendant business owner (called under EC776 by Plaintiff)
* ***Barragan, et. al. v. LNG Logistics and Gomez***, SDSC Case No. 37-2017-00023393-CU-OE-CTL. PAGA+1 (wage/PAGA). Represented Ismael Barragan and other aggrieved employees in an individual and PAGA case (PAGA + 1) Two-week jury trial resulting in a jury verdict in favor of Thom’s client on individual claims in 2022.
* This was followed by a two-day bench trial decided in favor of other “aggrieved employees” on the PAGA penalties in 2024, with Judge Mangione. Trial resulted in a judgment of over 1.4 million.
* ***Best v Hilal-*** OCSC Case No. 30-2022-01260217-CU-OE-CJC.1 week jury trial in 2025. Defense verdict, pending Appeal.

\*Above court trials do not include numerous arbitrations, Labor Board hearings, medical professional licensing hearings and EDD hearings.