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HON. HALIM DHANIDINA CASE LIST

CIVIL RIGHTS

Jones v. City of Los Angeles

5/17/2018

2018 WL 2252543

Plaintiff detectives sued city, alleging that they were subject to harassment, discrimination, and retaliation on the basis of race and national origin in violation of the Fair Employment and Housing Act (FEHA) after they complained about their division's policy that only English be used to communicate in the division's squad room. The city was defended by the city attorney. In a subsequent action, officers from the same division sued the city after the detectives disparaged them in Spanish. In this subsequent action, the city was represented by a private law firm. Plaintiff officers moved to disqualify the law firm from representing the city, which the granted, and the city appealed. Court affirmed order, holding disqualification order was not an abuse of discretion because officer had shared confidential information with the law firm in first lawsuit, including the reasons for the English-only directive.

B.B. v. County of Los Angeles

7/10/2018

25 Cal.App.5th 115

Wife and five children brought wrongful death action against the county after husband and father suffered brain death from lack of oxygen due to a cardiac arrest. The jury awarded the family \$8 million in damages and county appealed, arguing insufficient evidence, attorney misconduct, instructional error, and allocation of fault given. Court reversed in part and affirmed in part, holding that Civil Code section 1431.2 mandates allocation of noneconomic damages in proportion to each defendant's comparative fault, notwithstanding jury's finding of intentional misconduct. Further, on family's cross-appeal, court found that family brought sufficient evidence to raise a triable issue of fact as to whether defendant's actions interfered with father's right to be free from unreasonable seizure in support of the family's claim for civil rights violations under Civil Code section 52.1.

Mason v. Lancaster Hospital Corporation

7/18/2018

2018 WL 3454731

Plaintiff sued Hospital, alleging hospital terminated her employment as a nurse in retaliation for her complaints about violations of nurse-to-patient staffing ratios and fraudulent reporting in patient records. She alleged causes of action for retaliation in violation of Health and Safety Code section 1278.5, Labor Code section 1102.5, and Business and Professions Code section 510; retaliation and discrimination in violation of the Fair Employment and Housing Act, Government Code section 12940 et seq.; wrongful termination in violation of public policy; and

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aiding and abetting. The jury found in favor of the hospital, concluding it had a legitimate nonretaliatory reason for firing plaintiff. Court affirmed the judgment, finding that juror's statement to other jurors that, at her work, there was a rule that an employee could be fired if he or she was 1% at fault, did not contradict the jury instructions and did not constitute misconduct.

Omidi v. Schunke

11/27/2018

2018 WL 6178195

Plaintiff appealed an order of dismissal and an order granting defendant medical board's special motion to strike under Code of Civil Procedure section 425.16 (anti-SLAPP). Plaintiff sued medical board alleging causes of action for violation of civil rights under 42 U.S.C. section 1983, (2) violation of the Fair Credit Reporting Act (FCRA) (15 U.S.C. § 1681 et seq.), (3) sexual harassment based on a hostile work environment, pursuant to the California Fair Employment and Housing Act (FEHA) (Gov. Code, § 12900 et seq.), (4) state civil rights violations (Civ. Code, §§ 51, 52.1), (5) intentional interference with prospective economic advantage, (6) negligent interference with prospective economic advantage, (7) intentional infliction of emotional distress, and (8) negligent infliction of emotional distress. Court affirmed the dismissal and motion to strike, holding plaintiff had not stated a cause of action under FCRA because medical board was not a consumer reporting agency and the newspaper articles forwarded to university were not consumer reports; plaintiff's sexual harassment claim failed because he could not allege a hostile work environment; plaintiff's civil rights claims failed because his termination was insufficient to state a claim under the Bain Act; plaintiff's 1983 claims were undeveloped and thus forfeited; and the trial court properly found that plaintiff failed to establish a probability of prevailing on the merits of his claims.

Omidi v. National Resident Matching Program

11/27/2018

2018 WL 6178016

Trial court sustained demurrer and granted summary judgment in favor of defendant medical residency matching program. Court affirmed judgment, holding that university did not delegate any official state power to matching program, therefore, matching program's policies were not developed and enforced under the color of state law, which was fatal to plaintiff's 1983 claims. Further, plaintiff failed to raise a triable issue of fact that university dean, who was also a volunteer member of matching program's board, was acting in a dual capacity as a state actor.

Whittingham v. City of Los Angeles

12/7/2018

2018 WL 6427635

Police captain sued city claiming he had not been promoted due to retaliation for his participation in an internal affairs investigation and for votes he cast not to terminate the

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employment of officers in several board proceedings—votes that were purportedly contrary to the wishes of the police chief. The jury found for the City on both plaintiff's causes of action, one for workplace retaliation under the Fair Employment and Housing Act (Gov. Code, § 12940 et seq.) (FEHA) and the other for whistleblower retaliation (Lab. Code, § 1102.5). Court affirmed judgment, holding trial court properly excluded evidence of two other officers who had suffered similar retaliation after they cast votes contrary to the police chief's wishes because the other officers' experiences were not sufficiently similar to plaintiff's experience.

Thompson v. People Coordinated Services of Southern California, Inc.

12/10/2018

2018 WL 6444381

Plaintiff appealed judgment in favor of employer and dismissal of his claims for discrimination, disability harassment, and fraud that arose out his employment as youth counselor at a nonprofit. Court affirmed dismissal, finding that dismissal of disability harassment claim was error but plaintiff was not prejudiced because his disability discrimination claim was based on the same facts as his California Family Rights Act (CFRA) claim, which the jury found employer had not violated.

Hanna v. City of Long Beach

12/17/2018

2018 WL 6599570

Employee sued employer for failing to investigate complaints she had been sexually harassed at work. Employer moved to disqualify employee's counsel on the eve of trial on the grounds that employer intended to call him as a witness regarding a Department of Fair Employment and Housing (DFEH) complaint. The trial court denied the motion and awarded employee sanctions for the disqualification motion after employee prevailed at trial. Court affirmed sanctions order, holding trial court did not abuse its discretion in sanctioning employer because the request to disqualify was frivolous and intended only to delay trial given that employer failed to present any evidence that the attorney would be a necessary witness at trial.

Rubalcaba v. Albertson's LLC

3/29/2019

2019 WL 1417158

Plaintiff worked as a produce clerk for defendant for 33 years. After he was terminated in 2013, he filed this action alleging, among other things, disability discrimination in violation of the Fair Employment and Housing Act (FEHA) (Gov. Code, § 12940, subd. (a)), failure to accommodate his disability (Gov. Code, § 12940, subd. (m)(1)), failure to engage in the interactive process (Gov. Code, § 12940, subd. (n)), retaliation (Gov. Code, § 12940, subd. (h)), and intentional infliction of emotional distress. Plaintiff sought compensatory and punitive damages. The trial court granted summary judgment in defendant's favor on plaintiff's claims for disability discrimination, failure to accommodate, and punitive damages. The remaining causes of action

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for failure to engage in the interactive process, retaliation, and IIED, were tried by a jury, which returned a verdict for plaintiff. The Court reversed in part and affirmed in part, holding there were triable issues of fact as to defendant's intentional discrimination, however, plaintiff failed to prove his failure to accommodate claim because plaintiff was able to perform his job duties without an accommodation; the employees who decided to terminate plaintiff were not managing agents, therefore, punitive damages were inappropriate; plaintiff failed to identify an accommodation that defendant should have provided him; plaintiff's seeking of an accommodation was not in the proper timeframe to support his retaliation claim; and plaintiff's IIED claims were not supported by substantial evidence because defendant a legitimate, nondiscriminatory reason for plaintiff's termination as plaintiff took defendant's property home without permission.

Tripi v. Make-Up Artists & Hair Stylists Guild

5/9/2019

2019 WL 2052116

Plaintiff sued union and union members for discrimination and retaliation in violation of the Fair Employment and Housing Act (FEHA), alleging she is a 61-year-old woman of Hispanic national origin, a journeyman hair stylist in good standing, and that she had filed several complaints with the United States Equal Employment Opportunity Commission alleging discrimination and retaliation against the Union. She pled that due to the conduct of the defendants she had not been rehired for jobs for which she had originally been hired, had been the subject of defamatory, discriminatory, and retaliatory statements, and had been blacklisted by the Union, causing her not to receive job referrals from the union. Plaintiff appealed trial court's order granting union's special motion to strike under Code of Civil Procedure section 425.16. Court affirmed order, holding plaintiff offered no cognizable argument as to why the motion to strike should have been denied or how the trial court abused its discretion in awarding defendant attorney fees.

Pullara v. Burchett

5/16/2019

2019 WL 2136115

Plaintiff appealed from the trial court's order granting the special motion to strike under Code of Civil Procedure 425.16 (anti-SLAPP) brought by university defendants. The complaint included causes of action for defamation, defamation per se, intentional infliction of emotional distress, and negligent infliction of emotional distress and generally alleged that a university employee falsely reported to police that plaintiff had made a threatening remark during a telephone conversation with a student working in the provost's office. Court affirmed order, holding that filing a police report—even if it is alleged to be false—is plainly within the scope of the anti-SLAPP statute unless it is undisputed that the report was, in fact, false. Here, evidence showed that university defendants did not speak with any law enforcement personnel about plaintiff, file a police report (let alone a false police report) about plaintiff, or make false

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statements to the police about plaintiff, thus, defendants met their burden to show that plaintiff's claim was meritless.

Crespin v. Crimson Pipeline, LP

8/19/2019

2019 WL 3886907

Plaintiff sued defendant for disability discrimination and defamation. The trial court sustained demurrers to plaintiff's causes of action for retaliation and defamation, and granted summary adjudication on plaintiff's causes of action for unlawful discrimination, failure to prevent unlawful discrimination, wrongful termination, and unfair competition. Court affirmed the dismissal and judgment, holding defendant plaintiff could not state a cause of action under Labor Code section 1102.5, which makes it unlawful for an employer to retaliate against an employee for disclosing information about the employer, because plaintiff's offer was rescinded after defendant learned he had a physical disability; plaintiff could not state a claim for defamation because communications made in a commercial or business setting relating to the conduct of an employee generally fall within the common interest privilege; and employer produced evidence of a legitimate nondiscriminatory reason for declining to hire plaintiff, mainly, plaintiff lacked relevant experience, did not plan to live near the worksite on weekends and thus was unavailable to respond to emergencies, and plaintiff had been fired from a previous position for falsifying time records.

Shah v. County of Los Angeles

8/22/2019

2019 WL 3955863

Pharmacy supervisor sued county for employment discrimination and other causes of action under the Fair Employment and Housing Act (FEHA) on the grounds that employer terminated him based on his disability and age. The trial court granted summary judgment in favor of county but denied county's motion for attorney fees. The parties appealed and the Court affirmed the judgment and post judgment order, holding the county established a legitimate nondiscriminatory reason for discharging plaintiff, mainly, his unsatisfactory performance evaluation, his misconduct in dispensing medication to a customer in an unlabeled vial, his repeated accessing of patient records without a business-related reason, and discussing the unlabeled vial incident with his co-workers despite being instructed not to do so. Further, the trial court properly denied the motion for attorney fees because plaintiff's action was not patently frivolous as he presented evidence of discriminatory conduct and statements by defendant's employees and some of his claims were meritorious but for the fact they were not timely and were not subject to the continuing violation doctrine.

Barrus v. Henkel Corporation

1/6/2020

2020 WL 61816

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Employee appealed from the grant of summary judgment in favor of employer, arguing there were triable issues of fact on whether employer terminated her because of her mental disability and the trial court failed to consider relevant evidence in her opposition. Court affirmed the judgment, holding there was uncontroverted evidence that employer had no knowledge of employee's mental disability when the termination decision was made. Further, the Court held that the uncontroverted evidence established that employee was not a qualified individual at the time when she was terminated. Where, as here, an employee is unable to perform his or her essential duties even with reasonable accommodations, the eventual discharge of that person is not actionable. Further, the uncontroverted evidence supported the conclusion that the employer's termination decision was motivated solely by nondiscriminatory business considerations.

Hicks v. Board of Trustees of the California State University

3/23/2020

2020 WL 1329389

Plaintiff appeals a judgment on the pleadings in favor of defendant board of trustees of university system. In her complaint, plaintiff asserted several causes of action for gender discrimination under state and federal statutes, based on the Board's decision to suspend her from the California State University system for one year after she discharged pepper spray in her dorm room during an altercation with two of her roommates. The trial court concluded plaintiff failed to allege sufficient facts to state a claim for relief on any legal theory. Court affirmed judgment, holding plaintiff's injunctive relief cause of action was moot; there was no private right of action for damages under Title IV, the Violence Against Women Act, or Government Code section 11135, plaintiff could not state a claim under Title VII because she was not a university employee; and plaintiff could not state a claim based on gender discrimination because there were no facts or allegations that the university based its decision on plaintiff's gender or that university officials responded to actual knowledge of gender discrimination with deliberate indifference.

California Gun Rights Foundation v. Superior Court

5/29/2020

49 Cal.App.5th 777

Gun rights foundation brought action seeking records "controlled, actually and/or constructively possessed and/or used by" California's Department of Justice and California Attorney General under California Public Records Act (CPRA). The Los Angeles County Superior Court transferred the action to Sacramento Superior Court, and foundation petitioned for writ of mandate. Court granted petition, holding provision of CPRA governing disclosure of public records does not limit jurisdiction over CPRA disputes to the superior court of the county where the disputed records are located; provision of CPRA governing disclosure of public records does not make place of trial part of grant of subject matter jurisdiction; provisions of CPRA authorizing that jurisdiction over CPRA disputes may be exercised by any court of competent

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jurisdiction does not override statute governing venue for actions against state agencies; and trial court did not order discretionary change in venue by transferring action.

AIDS Healthcare Foundation v. City of Los Angeles

6/15/2020

50 Cal.App.5th 672

Affordable housing organization brought action against city for violations of federal Fair Housing Act (FHA) and state Fair Employment and Housing Act (FEHA), alleging four multi-use development projects approved by city had disparate impact on Black and Latino residents. The trial court sustained demurrers by city and real parties in interest, which were projects' owners and developers, without leave to amend. Organization appealed. Court affirmed the dismissals, holding city's approval of development projects to revitalize area constituted policy or practice sufficient to support disparate-impact claims; city's policy was not artificial, arbitrary, or unnecessary barrier to fair housing; halting development until the city initiated measures to mitigate gentrification was not appropriate remedy for any violations of FHA and FEHA; and organization failed to establish reasonable possibility defects in complaint could be amended.

Ramos v. Total-Western, Inc.

3/18/2020

2020 WL 1283099

Plaintiffs filed an action against their former employer, alleging employer engaged in gender discrimination through its job assignment, compensation, and promotion policies and practices. During their employment, plaintiffs were union members subject to the terms and conditions of a collective bargaining agreement (CBA) that contains an arbitration provision. Employer filed a motion to compel arbitration of plaintiffs' claims, including their claims under the Fair Housing and Employment Act (FEHA) and the Private Attorneys General Act (PAGA), which the trial court denied concluding that the CBA did not contain a provision that clearly, unmistakably, and explicitly waived plaintiffs' right to litigate their statutory claims in a judicial forum. Court affirmed the orders, holding CBA's terms purporting to waive the employees' right to prosecute statutory claims in a judicial forum were not clear and unmistakable to render the waiver valid because the CBA did not incorporate FEHA or PAGA into its terms.