

SIGNATURE

RESOLUTION

HON. HALIM DHANIDINA CASE LIST

EMPLOYMENT

MacDonald v. Arazm

1/4/2018

2018 WL 286354

Employee sued employer under Fair Employment and Housing Act, asserting claims for workplace harassment, wrongful employment termination, and failure to take reasonable steps prevent harassment, as well as whistleblower retaliation under Labor Code section 1102.5. The court affirmed in part and reversed in part an individual defendant's motion for judgment on the pleadings. The court held that the trial court did not abuse its discretion in refusing to refusing his request to withdraw his admission that the defendant was not his employer; and the trial court properly granted motion for judgment on the pleadings for those claims which could only be brought against an employer. However, the court reversed the judgment as to employee's harassment claim because the trial court improperly considered testimony from employee's deposition that showed that claim was time-barred.

Craighead v. Midway Rent A Car, Inc.

1/12/2018

2018 WL 387849

Employee sued employer for wrongful termination and employer moved to compel arbitration, which the trial court denied. Court affirmed the order, finding that the arbitration agreement was unenforceable because it was a contract of adhesion and that the arbitration policy was permeated with so many unconscionable provisions that the agreement was unenforceable in its entirety. These terms included a bar to recovery for punitive damages, violation of Labor Code section 1194(a) in that it made recovery of attorney fees discretionary and exempted the employer's claims for injunctive or other equitable relief.

Office of City Attorney v. Spindler

3/7/2018

2018 WL 1180277

Defendant appealed from a workplace violence restraining order limiting his contact with City Council President. Defendant argued that the restraining order was invalid because it was sought by the Office of the City Attorney, rather than by the City of Los Angeles, was not supported by substantial evidence, and was inconsistent with his right to free speech. Court affirmed order, holding the City Attorney may pursue a restraining order on behalf of the city; substantial evidence supported the finding that images on the speaker card constituted a credible threat of workplace violence; and the restraining order was not inconsistent with defendant's free speech rights.

SIGNATURE

RESOLUTION

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.

Aranda v. County of Los Angeles

5/31/2018

2018 WL 2439877

Employee sued employer for causes of action under the Fair Employment and Housing Act (FEHA) for retaliation for complaining about harassment and discrimination; discrimination based on age; disability discrimination; failure to accommodate her disability; failure to engage in the interactive process to determine a proper accommodation; and hostile work environment harassment. The trial court granted summary judgment in favor of employer, finding employee's claims were time-barred, employer's conduct did not constitute adverse employment that materially altered terms or conditions of employment, and employer provided legitimate non-retaliatory reasons for not promoting employee. Court affirmed judgment, holding employer's conduct did not constitute adverse employment actions, specifically, giving employee a notice of expectations, investigating employee's misuse of absence management system, and transferring employee to another office. Nor could employee demonstrate that she was denied promotions on account of her age because one of the subject positions was filled before employee applied while employee did not actually apply to another available position.

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

SIGNATURE

RESOLUTION

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 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.

O'Brien v. Sajahtera, Inc.

11/20/2018

2018 WL 6064839

Plaintiff appealed a judgment in favor of employer after trial court denied plaintiff's petition to vacate an arbitration award involving plaintiff's misclassification claims. Arbitrator found plaintiff was properly classified as an exempt employee as a sommelier and learned professional. Court affirmed the judgment, holding that plaintiff's arguments were improper attempts to repackage the arbitrator's purportedly erroneous factual findings and legal conclusions as actions in excess of the arbitrator's authority in order to challenge the award under Code of Civil Procedure section 1286.2(a)(4).

Del Rosario Martinez v. Ready Pac Produce, Inc.

11/20/2018

2018 WL 6064948

Employee sued employer after she was allegedly terminated because of her age. The trial court denied employer's motion to compel arbitration on the grounds that the arbitration agreement was unconscionable because it included a provision waiving the right to participate in any representative action, including a class action suit that was pending at the time employee signed the agreement. Court reversed the order, holding that, while arbitration was procedurally unconscionable because it conditioned employee's continued employment on signing, it was not substantively unconscionable because class action waivers are generally enforceable and the waiver of the pending class action did not preclude employee from arbitrating similar individual claims.

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,

SIGNATURE

RESOLUTION

§§ 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 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

SIGNATURE

RESOLUTION

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.

Kensington Caterers, Inc. v. Iwuchuku

3/26/2019

2019 WL 1349474

Plaintiffs sued defendants, alleging wrongful termination in violation of public policy, as well as statutory claims under the Labor Code and under the Fair Employment and Housing Act (FEHA). Plaintiffs obtained default judgments against each defendant. Plaintiffs assigned their judgments to a collections company that obtained writs of execution. The collections company levied on defendants' accounts and then assigned and transferred all rights, title, and interest in judgments back to plaintiffs. Subsequently, defendants moved to set aside the default judgments, alleging the judgments were obtained by fraud. Plaintiffs and their counsel filed a special motion to strike, contending the cross-complaint was barred by the litigation privilege. Court denied the motion and plaintiffs appealed. Court affirmed the order, holding defendants' attempts to restore the seized funds after the default judgments were vacated and after the trial court ordered the funds returned did not arise from protected activity, and the allegations of the initial litigation merely provided context to defendants' claims for conversion and unjust enrichment.

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

SIGNATURE

RESOLUTION

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 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.

Powell v. County of Los Angeles

5/9/2019

2019 WL 2052130

Plaintiff appealed from a summary judgment order in favor of employer. Her complaint alleged disability discrimination in violation of Fair Employment and Housing Act (FEHA) and failure to accommodate her disability. Court affirmed the judgment, finding that employer carried its burden to show that plaintiff was not subject to an adverse employment action because even though plaintiff's title was changed to receptionist, she was not demoted and maintained her civil service title during the entire relevant period. Further, plaintiff was not denied a reasonable accommodation given her physician's work restrictions were consistent with her assignment and plaintiff delayed the process of accommodation by not exchanging essential information with her employer regarding her new limitations.

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

SIGNATURE

RESOLUTION

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.

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.

Gonzalez v. City of Los Angeles

12/3/2019

42 Cal.App.5th 1034

SIGNATURE

RESOLUTION

Former police sergeants filed petitions for writ of mandate ordering city police department to vacate their disciplinary terminations and provide them with opportunity for administrative appeal. The trial court granted the writ and the police department appealed. Court reversed, holding that the board of rights hearing that followed decisions to remove sergeants from employment was the administrative appeal as required under Public Safety Officers Procedural Bill of Rights Act and Government Code section 3304(b).

Barrus v. Henkel Corporation

1/6/2020

2020 WL 61816

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.

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.

Albarracin v. Fidelity National Financial, Inc.

8/13/2020

2020 WL 4691740

SIGNATURE

RESOLUTION

Plaintiff sued her former employer and supervisor for intentional infliction of emotional distress and several employment-related claims arising out of the termination of her employment after she complained that her supervisor had sexually harassed her during a work retreat. A jury found defendants liable for intentional infliction of emotional distress, retaliation for engaging in protected activity under the Fair Employment and Housing Act (FEHA), and wrongful termination. The jury also awarded plaintiff damages for emotional distress and punitive damages against the employer. Defendants appealed the judgment and attorney fee award. Court affirmed the judgment and order, holding substantial evidence supported the jury's finding of oppressive and malicious conduct because defendants purposely ignored plaintiff's complaints and instead looked for a way to terminate her employment. Further, the punitive damage award did not exceed constitutional limits given plaintiff's harm was not purely economic, defendants demonstrated an indifference to or reckless disregard for plaintiff's health and safety, and plaintiff's harm was a direct result of defendants' intentional trickery. Nor was the punitive damages award excessive considering the comparable civil penalties, the size of the compensatory damages award, and defendants' wealth.