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HON. TRICIA BIGELOW CASE LIST

Tort

Pasternack v. McCullough

6/7/2021

65 Cal.App.5th 1050

Plaintiff filed malicious prosecution claim against attorney and law firm. Defendants prevailed on appeal in reversing an order denying their special motion to strike. On remand, the trial court awarded attorney fees in the amount of \$146,010. Plaintiff appealed the award, arguing the trial court erred in ordering him to pay an hourly rate that exceeded the hourly rate actually paid by defendants' insurer, and that the amount shocked the conscience.

Safechuck v. MJJ Productions

1/3/2020

43 Cal.App.5th 1094

Alleged victims of childhood sexual assault by musician, who were between the ages of 26 and 40 at the time of filing, sued musician's corporations as third-party nonperpetrators for intentional infliction of emotional distress, negligence, negligent supervision, negligent retention/hiring, negligent failure to warn, train, or educate, and breach of fiduciary duty. The trial court granted summary judgment in favor of corporations in one case and sustained corporations' demurrer in another case. Alleged victims appealed, arguing their claims were timely under the amended Code of Civil Procedure section 340.1, which allowed a victim to bring claims of childhood sexual assault against third-party nonperpetrators until the victim's 40th birthday.

Dickinson v. Cosby

7/26/2019

37 Cal.App.5th 1138

Alleged rape victim, who was well-known model and television personality, sued her alleged rapist, a well-known comedian and television actor, for defamation and related causes of action, arising from demand letter and press release issued by alleged rapist's attorney regarding alleged victim's public disclosure of rape allegations, and alleged victim subsequently filed first amended complaint adding attorney as defendant and additional claims. The trial court granted defendants' motion to strike the first amended complaint on procedural grounds, and granted alleged rapist's anti-SLAPP motion in part. The parties filed cross-appeals. The Court of Appeal affirmed in part and reversed in part. On remand, defendants filed anti-SLAPP motions seeking to strike claims in alleged victim's first amended complaint. The trial court granted attorney's motion in its entirety and granted alleged rapist's motion in part. Alleged rapist appealed, arguing decision on prior appeal that defamation claims based on demand

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letter and first press release were barred under anti-SLAPP statute was law of the case; there was insufficient evidence showing alleged rapist approved or authorized allegedly defamatory statements; there was insufficient evidence showing alleged rapist ratified allegedly defamatory statements; alleged victim produced insufficient evidence to show that press releases were “of and concerning” victim; and alleged victim produced insufficient evidence showing that press releases contained assertions of fact actionable as defamation.

Doe v. Los Angeles County Dept. of Children & Family Services

6/20/2019

37 Cal.App.5th 675

Foster child sued county department of children and family services and private foster care agency for negligence and failure to perform statutorily mandated duties, which arose from sexual abuse by foster mother's two adult sons. The trial court granted defendants' motion for nonsuit, and subsequently granted in part foster child's motion to tax costs and county's motion for attorney's fees. Foster child appealed, arguing sons' sexual abuse was foreseeable, triggering a duty by agency to protect her from misconduct; department's failure to perform its duties proximately caused her injuries; trial court abused its discretion in denying leave to file a fifth amended complaint; trial court abused its discretion in concluding that foster child unreasonably failed to admit requests for admission; grant of nonsuit precluded award of costs; and trial court abused its discretion in awarding department service of process and other fees as prevailing party.

Stokes v. Muschinske

3/14/2019

34 Cal.App.5th 45

Accident victim and wife sued motorist following rear-end automobile accident. After a stipulation as to liability, the trial court entered judgment on jury verdict on damages. Accident victim appealed, arguing evidence supported finding that juror, during voir dire, intentionally concealed two prior lawsuits in which he had been named as defendant. The victim also argued that references to the insurer and Medicare, as well as Social Security violated collateral source rule.

Velasquez v. Centrome, Inc.

1/30/2015

233 Cal.App.4th 1191

Former worker at food flavoring factory sued diacetyl supplier for negligence, negligence per se, and strict products liability. The trial court granted nonsuit on worker's common law negligence cause of action and entered judgment on special jury verdict for supplier on the remaining causes of action. Worker appealed, arguing the trial court erred when it disclosed former worker's immigration status to the venire of prospective jurors and when it denied his motion for mistrial based on the trial court's disclosure of his immigration status.

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Ginsberg v. Gamson

4/30/2012

205 Cal.App.4th 873

Commercial tenant sued landlord for breach of contract, intentional interference with use of premises, intentional infliction of emotional distress, fraud, conversion, injunctive relief, and trespass to chattel. Landlord cross-claimed for declaratory relief, asking for a determination of whether tenant only had a right to single lease extension and whether the tenant was a holdover. The trial court entered finding after bench proceeding that lease provided series of options, and, following jury trial, entered judgment for tenant but struck award of punitive damages. Landlord and tenants both appealed. Landlord argued the trial court erred in concluding the lease gives the tenants the right to unlimited extensions of the lease and the trial court abused its discretion in issuing an injunction that exceeds the parties' rights and responsibilities under the lease. Tenants challenged the trial court's order striking the punitive damages award.

Lefebvre v. Lefebvre

9/28/2011

199 Cal.App.4th 696

Former husband sued former wife and wife's friend for malicious prosecution, false arrest and imprisonment, negligent statements without justification, intentional infliction of emotional distress, and damages for violation of his civil rights. The trial court denied anti-strategic lawsuit against public participation (SLAPP) motion. Wife and friend appealed, arguing police report was "protected activity" under anti-SLAPP statute.

Vafi v. McCloskey

3/22/2011

193 Cal.App.4th 874

Former boyfriend sued former girlfriend and the attorneys who represented her in prior litigation. The trial court granted defendants' anti-strategic lawsuit against public participation (SLAPP) motion and dismissed with prejudice. Boyfriend appealed, arguing the general statute of limitations applicable to actions for malicious prosecution under Code of Civil Procedure section 335.1 applied rather than the statute of limitations for actions against attorneys under Code of Civil Procedure section 340.6.

Gerbosi v. Gaims, Weil, West & Epstein, LLP

3/9/2011

193 Cal.App.4th 435

Ex-girlfriend sued ex-boyfriend and ex-boyfriend's attorneys for invasion of privacy, intentional infliction of emotional distress, unlawful eavesdropping, unfair competition, negligence, malicious prosecution, and abuse of process. Ex-girlfriend's neighbor also sued ex-boyfriend

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and ex-boyfriend's attorneys for unlawful wiretapping, unlawful eavesdropping, common law intrusion, invasion of privacy, intentional infliction of emotional distress, negligence, and negligent supervision. The trial court denied defendants' anti-strategic lawsuit against public participation (SLAPP) motions. Attorneys appealed, arguing its conduct fell under the protective umbrella for acts in furtherance of protected "petitioning" activity, and attorneys' status as members of the bar automatically conferred the protections of the anti-SLAPP statute.

Weinberger v. Morris

9/24/2010

188 Cal.App.4th 1016

Trust settlor's son, who was omitted from trust, sued trust beneficiary for fraud, constructive trust, slander of title, and other causes of action. The trial court issued order determining construction of trust instrument in beneficiary's favor. Son appealed, arguing trust terminated automatically upon the settlor's death under the merger doctrine.

Baker v. National Interstate Ins., Co.

12/30/2009

180 Cal.App.4th 1319

Assignees of insured's rights under commercial general liability policy sued insurer for breach of insurance contract and breach of the implied covenant of good faith and fair dealing. The trial court denied summary judgment for insurer, and entered judgment on special jury verdict for assignees. Insurer appealed, arguing "products-completed operations hazard" exclusion applied to claims for damages arising from insured's negligent inspection of a bus after a fatal accident resulted after the bus driver's seat broke loose from the floor.

Sakhai v. Zipora

12/21/2009

180 Cal.App.4th 593

After a water pipe burst in apartment building and flooded the tenants' property, tenants sued several defendants for trespass and negligence. The trial court dismissed the case for delay in prosecution and later denied tenants' motion to set aside the dismissal. Tenants appealed, arguing trial court abused its discretion in dismissing the action on its own motion because it failed to give the parties 45 days' notice before a hearing on a discretionary dismissal under Code of Civil Procedure section 583.410.

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Doe II v. MySpace Inc.

6/30/2009

175 Cal.App.4th 561

Minors, through their parents or guardians, brought negligence, gross negligence, and strict product liability claims against social networking internet website, alleging that they were sexually assaulted by men they met through the site. The trial court sustained website's demurrers without leave to amend and dismissed the complaints. Minors appealed, arguing the social network had no immunity under the Communications Decency Act because their complaint did not treat the website as a publisher, rather, the website was an information content provider because it allowed the attackers to channel information in profiles, search and browse profiles for particular characteristics and then use the results of those queries to locate, contact, and eventually sexually assault the victims.

A.N. v. County of Los Angeles

3/5/2009

171 Cal.App.4th 1058

Former juvenile hall inmate sued county, sheriff, and Doe deputy sheriff officers, for negligence, negligent supervision, and negligent infliction of emotional distress. Juvenile amended complaint to name county employees as defendants, and served the county employees with summonses and complaints. The trial court granted employees' motion to quash service. Juvenile appealed, arguing the trial court acted in excess of its authority when it granted the Doe defendants' motion to quash, which did not challenge personal jurisdiction, and plaintiff's delay in filing his Doe amendments was due to propounding extensive discovery upon the county before learning the identities of the Doe defendants.