Proskauer

California Employment Law Notes

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Court Reverses $1 Million Discrimination Verdict Entered Against LA Fire Department

Jumaane v. City of Los Angeles, 241 Cal. App. 4th 1390 (2015)

Jabari Jumaane, an African-American firefighter with the Los Angeles Fire Department, sued the City of Los Angeles for racial discrimination, harassment and retaliation. Following a 34-day jury trial, the jury found for Jumaane on his claims and awarded him more than $1 million in damages. Following the trial, the city filed a motion for judgment notwithstanding the verdict based upon the statute of limitations, which the trial court denied. In this opinion, the Court of Appeal reversed, holding that the evidence of events that occurred before 2001 was not part of a continuing violation and that the evidence of events that occurred after that date was insufficient to prove the plaintiff's claims. The appellate court concluded that the trial court committed "manifest error" when it refused to give a city-requested instruction to the jury about the "continuing violation" doctrine – the trial court's previous denial of the city's motion for summary judgment on that issue only meant that there were triable issues of material fact that the jury should have been permitted to decide. The Court further held that Jumaane could not rely upon the continuing violation doctrine to sue for events that he alleged occurred in the 1990s because he knew those actions had become permanent by 1999 and that further efforts on his part to end the alleged conduct would have been in vain – yet he did not file his lawsuit until 2003.

Former HR Manager Could Proceed With FLSA Retaliation Claim

Rosenfield v. GlobalTranz Enters., Inc., 2015 WL 8599403 (9th Cir. 2015)

Alla Rosenfield, who worked as the Director of Human Resources and Corporate Training for GlobalTranz, was fired after she lodged multiple oral and written internal complaints that the company was not in compliance with the requirements of the Fair Labor Standards Act (FLSA). In this lawsuit, she alleges that she was terminated in violation of the anti retaliation provision of the FLSA (29 U.S.C. § 215(a)(3)) as well as Arizona state law. The district court granted the employer's motion for summary judgment on the ground that Rosenfield was not entitled to the protections of the statute because she had not "filed any complaint" as required by the law. The United States Court of Appeals for the Ninth Circuit reversed, holding that the company understood Rosenfield's "interactions" with the company to be "complaints" on the subject of FLSA compliance and because "FLSA compliance was *not* part of [her] portfolio, her advocacy for the rights of employees to be paid in accordance with the FLSA could not reasonably have been understood (if it was) merely to be part of [her] regular duties" as a manager.

Employee Could Proceed With Wrongful Termination Claim Based Upon Work-Related Injury

Prue v. Brady Co./San Diego, Inc., 196 Cal. Rptr. 3d 68 (Cal. Ct. App. 2015)

Adam Prue alleged wrongful termination of his employment based upon a work related injury, which violated the public policy set forth in Labor Code § 132a. The trial court granted the employer's motion for summary judgment on the grounds that Section 132a "cannot be the basis for a tort action for wrongful termination" and that the claim was barred by the one-year statute of limitations set forth in Section 132a. The trial court also denied Prue's motion for leave to file an amended complaint to add a cause of action for violation of the public policy represented by the Fair Employment and Housing Act (FEHA). The Court of Appeal reversed and held that the complaint alleged sufficient facts showing that the termination of Prue's employment violated FEHA's public policy against discrimination based upon a disability as well as the public policy supporting Section 132a. Similarly, the Court held that the two-year statute of limitations applicable to common law tort actions applied, not the one-year statute found in Section 132a. The trial court also erroneously denied Prue leave to amend his complaint.

Trade Secret Misappropriation Claims Should Not Have Been Dismissed

Richtek USA, Inc. v. uPI Semiconductor Corp., 242 Cal. App. 4th 651 (2015)

Richtek sued three of its former employees (all residents of Taiwan) and the company they formed (uPI Semiconductor) for misappropriation of Richtek's trade secrets. The trial court sustained the former employees' demurrer to the complaint on the ground that the lawsuit was barred by the Taiwanese statute of limitations after taking judicial notice of related complaints that were filed in Taiwan. The Court of Appeal reversed the dismissal of Richtek's claims on the ground that the trial court had improperly resolved the disputed issue of when Richtek had knowledge of the misappropriation based upon its judicial notice of documents contained in the Taiwanese judicial proceeding that contradicted allegations contained in Richtek's complaint. However, the Court affirmed the dismissal of one of the former employees from the lawsuit based upon a forum selection clause in his employment agreement that mandates a Taiwanese forum.

Residential Care Facility Could Require Its Employees To Take On-Duty Meals

Palacio v. Jan & Gail's Care Homes, Inc., 242 Cal. App. 4th 1133 (2015)

Yvonne Palacio filed this putative class action against Jan & Gail's Care Homes ("Care Homes") based on a policy that required newly hired employees to sign an agreement waiving their right to uninterrupted meal periods. Palacio sought class certification based upon the "general policy" of requiring the waiver without notifying employees of their right to revoke the agreement at any time. The trial court denied class certification, and the Court of Appeal affirmed, holding that subdivision 11(E) of Wage Order 5 permits residential care facilities such as Care Homes to *require* their employees to work on-duty meal periods and that employees need not be permitted to "revoke" the waiver.

Agricultural Workers' Putative Class Action Was Properly Denied Certification

Cruz v. Sun World Int'l, LLC, 2015 WL 9463140 (Cal. Ct. App. 2015)

Plaintiffs in this putative class action alleged off-the-clock work had been performed by employees, that meal and rest breaks were shortened, that the additional hour of pay for each meal or rest period they were denied was not paid, and that their wage statements were inaccurate. The trial court denied certification of the class, and the Court of Appeal affirmed, holding that common issues did not predominate over individual issues; the named plaintiffs' claims were not typical of the class; the named plaintiffs were not adequate representatives of the class and a class action was not a superior means of adjudicating the claims because of the lack of commonality of issues. The Court also held that a group of workers who had been supplied by farm labor contractors was not a sufficiently ascertainable group for purposes of class treatment.

Related Professionals

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