

## Successes

The list below is a small sample of the recent successes and achievements Wilson Turner Kosmo has helped our clients attain and demonstrates the various areas where we have been successful as a firm.

### Trials

- > A Wilson Turner Kosmo LLP trial team lead by Claudette Wilson defended Target, and defeated well-known plaintiff's lawyer Carney Shegerian, in a hard fought jury trial in San Diego earlier this year. A former executive team lead claimed he was terminated in retaliation for raising complaints of harassment and discrimination, asking for over \$3 million in compensatory damages, as well as punitive damages. Following an almost three week trial, the jury found in Target's favor. Target was also awarded \$66,000 in legal costs by the court.
- > Successfully defended a Fortune 100 company in a lawsuit filed in Los Angeles Superior Court alleging defamation, disability discrimination, retaliation, and a failure to accommodate. The plaintiff claimed to have been falsely accused of threatening his manager, and that his termination was in retaliation for seeking medical attention following a long leave of absence. He also contended that the company took too long to find a position that would accommodate his limitations and improperly placed him in a lower paying job. After a four-day trial, the jury returned a 12-0 unanimous defense verdict on each cause of action.
- > Obtained a complete defense verdict on a disability discrimination case for a Fortune 100 company after a two week bench trial in United States District Court, Central District of California. An employee claimed the company discriminated against him because of a perceived disability relating to his workers compensation injury. The employee further claimed that the company had a "100 percent healed" policy and that its interactive process was a sham.
- > Defended a board member of a local water board in a case brought by a white general counsel claiming wrongful termination and race discrimination by a primarily Hispanic board of directors. The case, filed in San Diego Superior Court, settled favorably during trial. The case resolved partly because of a successful trial in a related case in 2003, in which WTK represented the district's general manager in a wrongful termination, race discrimination and defamation case. That case resulted in a 12-0 defense verdict before a jury after five weeks of trial.
- > Successfully defended a large pharmaceutical company in an age discrimination and retaliation case in federal court in Orange County, California. The plaintiff was a former Senior Executive Sales Representative who was terminated for violating the company's grants policy by promising grants to a prospective customer. He was 49 at the time of his termination and claimed he was terminated because of his age and a complaint he made after his supervisor raised the policy violation with him. WTK removed the case to federal court on diversity grounds, and plaintiff waived a jury trial. The case was tried by Judge Selna and resulted in a defense verdict. Plaintiff appealed the judgment, which was affirmed by the Ninth Circuit Court of Appeals. The case was particularly challenging because trial occurred five years after the plaintiff's termination, which resulted in difficulties locating witnesses and refreshing witnesses' memories.
- > Defended a national lender in a sexual harassment and wrongful termination case. The case was originally filed in San Diego Superior Court, but a motion to compel arbitration was granted, and the case was arbitrated with JAMS. Plaintiff claimed that a co-worker sexually harassed her by, among other things, making a "peep hole" into the women's restroom as well as making numerous unwelcome comments about her body and pushing her face into a cake during an office party. Plaintiff claimed that even though she complained to her supervisor, nothing was done to stop it. The arbitrator found that plaintiff did not meet her burden of proving that unwelcome and inappropriate actionable conduct occurred. The arbitrator issued an award in favor of all defendants and awarded the Company \$39,000 in costs.

### Appellate Victories

- > Prevailed on appeal of summary judgment on behalf of Nationwide Legal Services Company before the California Court of Appeals on claims for wrongful termination, national origin and racial harassment, discrimination and retaliation in violation of California Public Policy. WTK first prevailed on its motion to compel the case to arbitration. Next, WTK prevailed on its motion for summary judgment on the grounds that the Plaintiff did not raise a triable issue of fact that he was either wrongfully terminated, harassed or discriminated against. Summary judgment was confirmed by the Los Angeles County Superior Court, and the appeal followed. The California Court of Appeal affirmed the judgment in full.
- > Prevailed on appeal of summary judgment on behalf of a major oil corporation before the Ninth Circuit Court of Appeals on a claim for violation of the Petroleum Marketing Practices ("PMPA"). WTK prevailed on the motion for summary judgment on the grounds that the client was not obligated to make a bona fide offer to a franchisee before terminating the franchise. Summary judgment was also successful on the oil company's counter claim for breach of contract, and the Court entered an award for damages and attorney's fees and costs in excess of \$500,000. The Ninth Circuit affirmed the judgments and awarded costs on appeal.
- > Obtained Summary Judgment on behalf of biotech company in employment and defamation action filed by former executive; briefed and argued matter on appeal where summary judgment was affirmed. (2016 Cal App Unpub Lexis 231)
- > Obtained Summary Judgment in case filed in L.A. County Superior Court against claims management company alleging sex, pregnancy and disability discrimination. Briefed and argued matter on appeal where summary judgment was affirmed. (2017 Cal App Unpub Lexis 2605)
- > Prevailed on appeal of summary judgment on behalf of a major oil corporation in the Ninth Circuit Court of Appeals on a claim for violation of the PMPA. WTK prevailed on the motion for summary judgment on the grounds that the right of first refusal offered by the client was legal. The Ninth Circuit affirmed the judgment and awarded costs on appeal.
- > Prevailed on appeal of summary judgment on behalf of a major oil corporation in the Ninth Circuit Court of Appeals on a claim for violation of California Business and Professions Code section 20999.25. WTK prevailed on the motion for summary judgment on the grounds that the price in the right of first refusal offered by the client was legal and the franchisee arguments regarding non-price terms of the offer failed as a matter of law. The Ninth Circuit affirmed the grant of summary judgment and awarded costs on appeal.

## Summary Judgment/Dismissals

- > Summary judgment and fees/costs award of over \$60,000 in whistleblower retaliation, FEHA retaliation, and FEHA associational disability discrimination case affirmed by Fourth Appellate District Court of Appeal.
- > Obtained dismissal of wage/hour class action against large claims management provider in case filed in Los Angeles Superior Court (and removed to federal district court) which involved potentially thousands of class members. Dismissal was obtained fairly early in the litigation process through direct negotiation and sharing of client information with class counsel and convincing counsel that the matter lacked merit.
- > Summary judgment affirmed by 9th Circuit Court of Appeals on a FEHA disability discrimination and failure to accommodate case where the employee alleged she was wrongfully terminated pursuant to the employer's leave of absence policy.
- > Prevailed on demurrer, which was sustained without leave to amend, against FEHA disability and race discrimination claims on statute of limitations grounds. In a case of first impression in California, the trial court agreed the so-called "continuing violations" doctrine may extend the deadline to file an administrative charge with the appropriate government agency, but does not apply to extend the statute of limitations after the agency issues a right-to-sue letter. The Fourth District Court of Appeal

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subsequently affirmed this legal reasoning and the majority of the trial court's final order in an unpublished decision that the parties are presently requesting be published.

- > Obtained summary judgment in United States District Court for the Central District of Los Angeles against claims of FEHA age discrimination, wrongful termination and defamation.
- > Obtained summary judgment in San Diego County Superior Court on behalf of individual against claims of FEHA racial harassment
- > Obtained summary judgment in the Central District of California for a large employer where employee alleged claims of race discrimination and retaliation.
- > Obtained summary judgment in Fresno County Superior Court for a large employer where employee claimed disability discrimination and failure to accommodate a disability.
- > Obtained summary judgment in the Central District of California for employer on a long-term employee's complaint for age discrimination, disability discrimination, and failure to accommodate a disability.
- > Obtained summary judgment on behalf of employer in the Central District of California on multiple theory employment discrimination lawsuit against aggressive plaintiff's counsel. Collected costs after judgment.
- > Obtained partial summary judgment on behalf of a major oil corporation in the Central District of California on Business and Professions Code section 20999.25 claims that the non-price terms of bona fide offers made to more than one hundred plaintiff-franchisees were illegal.
- > Defeated a motion for preliminary injunction brought against a major oil corporation in the Central District of California in a Business and Professions Code section 20999.25 case, thus allowing client to transfer sixty gas station properties to a third-party buyer, effectively ending the case for the client.
- > Represented a national quick-lube franchisor in a statewide putative class action in Los Angeles Superior Court alleging the company violated California Business and Professions Code sections 17200 and 17500 and the California Consumer Legal Remedies Act ("CLRA") by recommending that customers obtain oil changes every 3000 miles when vehicle manufacturers recommend oil changes at longer intervals. After an initial exchange of information and legal analysis, WTK was successful in getting the case dismissed without formal discovery or motion work.