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Thomas Freeman Wins Unanimous Decision in California Court of Appeal for TruConnect Communications

Bird Marella principal Thomas R. Freeman persuaded the California Court of Appeal to reverse a trial court ruling against client TruConnect Communications.

TruConnect provides free telephone services to low-income Californians eligible for subsidies under a program operated by the California Public Utilities Commission (CPUC). TruConnect filed tort claims against the CPUC contractors responsible for designing and implementing a new software system for operating the CPUC program. In its complaint, TruConnect alleged that the contractors botched the new system's rollout, costing TruConnect millions of dollars.

The San Francisco Superior Court ruled that TruConnect's claims were barred by a statute that divests courts of jurisdiction over lawsuits that interfere with the CPUC's performance of its official duties. After the trial court sustained a demurrer to TruConnect's complaint without leave to amend, the wireless provider retained Bird Marella to appeal the ruling.

Mr. Freeman argued on appeal that the statutory bar was inapplicable to tort claims for damages against private CPUC contractors based on prior (not ongoing) misconduct. The CPUC filed an amicus brief supporting the defendants, arguing that allowing TruConnect's lawsuit would interfere with its regulatory duties. On May 11, 2023, in a published opinion, the Court of Appeal reversed the trial court's ruling, holding that prosecution of TruConnect's tort claims would *not* interfere with the CPUC's ongoing regulatory duties.

The appellate win follows Bird Marella's 2021 victory for TruConnect in a federal False Claims Act (FCA) lawsuit.