

EMPLOYMENT

OVERVIEW

EMPLOYMENT DEFENSE FOR BUSINESSES AND CORPORATIONS

When representing employers, Bird Marella recognizes that the ideal outcome is frequently a negotiated resolution prior to formal filing or litigation. We specialize in representing clients who maintain public profiles in entertainment and business, whose professional reputations depend on discreet management of sensitive issues.

When matters proceed to litigation, we have deep experience handling a broad range of disputes involving claims of wrongful termination, discrimination, trade secrets misappropriation and breach of non-competition agreements, employee theft, and sexual harassment. We also represent corporations and company executives facing allegations of violating state and federal Equal Employment Opportunity (EEO) laws.

We have counseled on numerous matters related to the rights and duties of departing employees, including senior executives. Working in a litigation prevention capacity, we frequently advise clients on severance agreements and packages connected to major corporate mergers, restructurings, and workforce reductions. In this role, we draw upon our trial background to spot litigation vulnerabilities in proposed and prevailing agreements.

Bird Marella's dual criminal and civil practices are particularly useful to clients when allegations from current and former employees threaten criminal exposure. Several Bird Marella lawyers are former Assistant United States Attorneys. We leverage civil-criminal crossover capabilities to inject credibility and command into civil proceedings.

EXPERIENCE

Defending CEO's Sexual Harassment Case: We are representing a CEO and owner of a privately held hydro-technology manufacturer and distributor against claims of harassment made by a long-time saleswoman employee.

Achieved Complete Arbitration Win on Termination and Discrimination Claims: We represented a large, privately held corporation and several of its officers and shareholders against RICO, fraud, breach of contract, age discrimination, and wrongful termination claims brought by six former sales representatives. We compelled arbitration of all claims, and succeeded in a stay to the federal litigation. After a six-week evidentiary hearing, the arbitrators issued an award entirely in our clients' favor. We successfully defended that award against challenges in the district court and the United States Court of Appeals for the Ninth Circuit.

Represented High Level Executive In Massive Trade Secrets Misappropriation Case: In parallel civil and criminal proceedings, we represented a high-ranking executive of a major hospitality organization accused of misappropriating a large volume of trade secrets information, and orchestrating a "raid" of a competitor's employee work-force. After conducting an extensive internal investigation, we resolved all proceedings on favorable terms.

Granted Cert by U.S. Supreme Court in Employment Case: We were granted a petition for certiorari by the United States Supreme Court in a case challenging an adverse Ninth Circuit decision on the scope of immunity for federal officers and employees. Shortly after the Supreme Court granted cert, the plaintiff voluntarily dismissed all claims against the firm's client. *Henneford v. Castaneda*, 130 S.Ct. 487 (2009).

Defeated Wrongful Discharge on Summary Judgment: The firm obtained summary judgment on behalf of our client, an international sales-oriented company, on fraud and wrongful discharge brought by a former employee.

Secured Trial Victory to Shut Down Multiple Employment Claims: The firm defended a California-based insurance company and one of its sales managers against claims of discrimination based on national origin and religion, wrongful termination, harassment, battery, interference with contractual relations, infliction of emotional distress, and bad faith claims-handling practices. After disposing of several claims through summary judgment, we obtained a defense verdict on the remaining claims at the conclusion of a two-week jury trial. We also prevailed on our cross-complaint against the plaintiff for breach of a covenant not to compete.

Representing Legal and Accounting Professionals in Employment Claims: We regularly defend lawyers, law firms, accountants, and accounting firms in various employment based claims from employees. These include allegations of sexual harassment, discrimination, and wrongful termination.

Presented Successful Amicus Brief in NAACP Harassment Case: We represented the NAACP Legal Defense Fund as amicus curiae in a landmark sexual harassment case. The firm's argument on the exhaustion of administrative remedies was adopted by the court in the published opinion. *Rojo v. Kliger*, 52 Cal. 3d 65 (1990).

Represented Numerous Corporate Clients in Wage and Hour Class Actions: We have successfully defended numerous corporate employers in putative class actions relating to alleged wage and hour violations. All our matters have resolved on favorable terms prior to class certification.

Defeated At-Will Employee Wrongful Termination Claim: The firm defended a trucking company in a wrongful termination action brought by a former employee who was terminated after a change in corporate control. We established, contrary to her contentions, that she was an at-will employee and summary judgment was entered in our favor. We then successfully defended our victory on appeal.

Obtained \$8M Award in Class Employment Claims: We successfully represented class members who forfeited vacation under an illegal "use-it-or-lose-it" vacation policy. We achieved a judgment of almost \$8 million for a class of fewer than 200 employees.

Won Jury Verdict for Financial Company's Employment Claims: We represented a financial services company in an action for fraud, embezzlement, misappropriation of trade secrets, and breach of a non-compete agreement against a former officer of the company. After a two-week jury trial, we obtained a judgment of approximately \$750,000 in our client's favor. We also prevailed on cross-claims for wrongful termination and fraud filed by the defendant.