

# Daily Journal

February 12, 2014

## TOP VERDICTS OF 2013

### TOP PLAINTIFFS' VERDICTS BY IMPACT

## Elite of Los Angeles Inc. and San Diego Testing Services Inc. v. Summa Consulting LLC

**A**ttorneys with Bird Marella won a \$3 million verdict for test-prep company Elite Los Angeles Inc. after a group of employees split from the business to open a competing company, Summa Consulting LLC.

Ekwan E. Rhow and Jessica C. Kornberg, the plaintiffs' attorneys in the case, convinced a jury in April that Summa Consulting's Christopher Hamilton, a former Elite executive director who ran the company's San Diego operations, and several other former employees had taken proprietary information and secretly set up a business with the intention of siphoning clientele from the test prep company, which was ultimately the result. *Elite of Los Angeles Inc. and San Diego Testing Services Inc. et al.*

*v. Summa Consulting LLC et al.* (San Diego Super. Ct., filed Nov. 18, 2011).

The defense tried to stymie the plaintiffs' claims by theorizing students who used Elite's test prep services would have left for Summa regardless of the situation, according to Rhow, but jurors found that rationale unconvincing.

"We were able to prove — through emails and sworn testimony — that they were planning the new operation for many months," Rhow said. "And ultimately, the jury did award punitive damages in addition to compensatory ones." In addition to misappropriating trade secrets, the jury also found Hamilton and other employees liable for breach of fiduciary duties, and interfering with economic advantage.

In a cross claim, however,



**EKWAN E. RHOW**

San Diego Testing Services was found to owe back wages to several former employees.

Defense attorney Robert S. Chapman didn't respond to a request for comment.

— Henry Meier

#### case INFO

#### Breach of fiduciary duty

San Diego County

Superior Court Judge Joel M. Pressman

**Plaintiff's attorneys:** Bird, Marella, Boxer, Wolpert, Nessim, Drooks & Lincenberg PC, Ekwan E. Rhow, Jessica C. Kornberg

**Defense attorneys:** Eisner, Kahan, Gorry, Chapman, Ross & Jaffe APLC, Robert S. Chapman, Jon-Jamison Hill