

Bernard demurred arguing that Wandell did not sufficiently meet the first element for aiding and abetting because Bernard was unaware of the specific misrepresentations that Inokon made to Wandell.

RESULT: The defendants' demurrer was sustained.

OTHER INFORMATION: Inokon is listed as Registered In-House Counsel in the California State Bar website.

FILING DATE: Nov. 2, 2016

## CONTRACTS

### BREACH OF PROMISSORY NOTE

#### Bridge Loan Agreement

Arbitration: \$642,116

CASE/NUMBER: Electric Turn Investments Limited v. Avongard Products U.S.A., Ltd. dba Hydraulx / BS170202

COURT/DATE: Los Angeles Superior / Oct. 26, 2017

JUDGE: Michael M. Johnson

ATTORNEYS:

Plaintiff - Max J. Sprecher (Law Office of Max J. Sprecher)

Defendant - Confidential

FACTS: Petitioner Electric Turn Investments Ltd. loaned \$600,000 to respondent Avongard Products U.S.A., Ltd., dba Hydraulx, in connection with respondent's development and production of a motion picture entitled "Mighty Eighth" pursuant to a written bridge loan agreement and promissory note. The \$600,000 included a loan origination fee of \$100,000. After respondent failed to repay any portion of the loan by the maturity date, Electric Turn initiated an arbitral proceeding with the Independent Film & Television Alliance and sought to recover the outstanding principal and interest in the loan.

PETITIONER'S CONTENTION: Petitioner asserted that there were no defenses excusing repayment of the principal amount of the loan and interest. To the extent respondent asserted that the loan origination fee was usurious, petitioner waived the fee and limited its claim to the \$500,000 actually funded to respondent, interest on the reduced amount, attorney fees, and costs.

RESPONDENT'S CONTENTION: Respondent contended that the loan origination fee was usurious. Respondent also sought to pursue a cross-claim pertaining to an unrelated motion picture. The arbitrator held that the cross-claim was not encompassed by the arbitration clause and would not be considered. After the arbitrator denied the motion to consider the cross-claim, respondent abandoned its defense of the action.

DAMAGES: \$500,000, plus interest, attorney fees, and costs.

RESULT: A \$642,116 arbitration award was entered as judgment.

FILING DATE: Jul. 12, 2017

## EMPLOYMENT LAW

### SEX/BREASTFEEDING

## DISCRIMINATION

### Failure to Prevent Discrimination, Harassment and Retaliation

Settlement: \$160,000

CASE/NUMBER: Tasha Spencer v. City and County of San Francisco, and Does 1 to 20 / CGC-16-554523

COURT/DATE: San Francisco Superior / Oct. 31, 2017

JUDGE: A. James Robertson

ATTORNEYS:

Plaintiff - Mark P. Iezza, Michael D. Early (Klein, Hockel, Iezza & Patel PC)

Defendant - Dennis J. Herrera, Katharine H. Porter, Jonathan D. Yank (Office of the San Francisco City Attorney)

FACTS: Tasha Spencer sued the City and County of San Francisco.

PLAINTIFF'S CONTENTIONS: Spencer, a former City and County of San Francisco employee, alleged that San Francisco wrongfully terminated her. Spencer argued that San Francisco made it difficult for her to take her lactation breaks and terminated her for continuing to take the breaks and for retaliation for complaining about harassment and engaging in protected activity. Spencer's causes of action included discrimination on the basis of sex and retaliation for complaining of discrimination, among other things.

DEFENDANT'S CONTENTIONS: The City and County of San Francisco denied Spencer's allegations. The city asserted that it fully accommodated Spencer's need for lactation breaks, and that she was never denied such a break. The city also argued that Spencer was lawfully released from her six-month probationary employment due to excessive absenteeism, not due to her sex or need for a lactation accommodation.

DAMAGES: Spencer sought economic, non-economic, and compensatory damages.

RESULT: The parties settled for \$160,000 and Spencer was reinstated to her prior position with a 22 percent raise and full seniority.

FILING DATE: Sep. 27, 2016

## EMPLOYMENT LAW

### WRONGFUL TERMINATION Consumer Rights Violation

Settlement: \$498,080

CASE/NUMBER: Miresha Flowers v. Therapeutic Living Centers for the Blind Inc., and Does 1 to 10 / BC622548

COURT/DATE: Los Angeles Superior / Nov. 7, 2017

JUDGE: Rafael Ongkeko

ATTORNEYS:

Plaintiff - Tyler F. Clark (Clark Employment Law APC)

Defendant - Karen L. Gabler (LightGabler)

FACTS: Plaintiff Miresha Flowers filed suit against her former employer, Therapeutic Living Centers for the Blind Inc., in relation to the termination of her employment.

PLAINTIFF'S CONTENTIONS: After nearly 20 years of

employment, plaintiff was terminated on Christmas Eve of 2015 while at home recuperating from a surgical procedure. While plaintiff was recovering, defendant Therapeutic Living Centers for the Blind Inc. conducted an investigation and reached the conclusion that plaintiff abused the consumers she had been caring for and published said statements. The alleged abuse consisted of taking an iPod from one consumer and depriving another consumer of a hot lunch and a piece of birthday cake. At the time, plaintiff was making \$10.80 per hour and lived in a one bedroom apartment with her daughter on the company premises.

Plaintiff claimed that she did not abuse the consumers she had spent caring for her entire adult life. Rather, defendant terminated her due to her request for and taking of protected medical leave. During deposition, defendant admitted that the alleged acts did not constitute abuse, and if they did, each of its employees would have to report such incidents to an outside agency as mandated reporters. Further, defendant conducted a rushed, results-driven investigation, which violated its policies and procedures in place designed to protect its employees.

DEFENDANT'S CONTENTIONS: Defendant claimed that plaintiff had a history of performance issues and it conducted an investigation that unveiled that plaintiff had been violating consumer rights in violation of its policies and state and federal laws. The termination was not due to plaintiff's medical issues.

INJURIES: Plaintiff claimed damage to her reputation, loss of wages and significant emotional distress.

INSURER: RSUI Indemnity Company

SETTLEMENT DISCUSSIONS:

The parties attended early mediation, which was unsuccessful.

RESULT: Defendant submitted a CCP 998 offer for \$209,145 plus reasonable attorney fees and costs, which plaintiff accepted. The court awarded plaintiff \$21,186 as costs, and \$267,750 in attorney fees.

FILING DATE: Jun. 3, 2016

## GOVERNMENT

### MUNICIPALITIES

#### Dangerous and Unsafe Condition, Utility-hole Cover

Settlement: \$600,000

CASE/NUMBER: Kevin E. Kenny, et al. v. County of Los Angeles, et al. / BC527146

COURT/DATE: Los Angeles Superior / Sep. 18, 2017

MEDIATOR: Robert M. Tessier

ATTORNEYS:

Plaintiff - C. Michael Alder, Marni B. Folinsky, Allison L. Stone (AlderLaw PC)

Defendant - Edward W. Lukas Jr. (Harrington, Foxx, Dubrow & Canter LLP) for Zayo Group LLC; John A. Wright (Office of the City Attorney)

FACTS: On March 24, 2013, at

around 6:45 p.m., plaintiff Kevin Kenny, 59, a fleet manager for UPS, was riding his motorcycle on northbound Cahuenga Blvd., in Los Angeles, approximately 30 feet south of Hollycrest Drive, when he drove over a series of utility-hole covers on the roadway. Plaintiff sued the City of Los Angeles and Zayo Group LLC.

PLAINTIFF'S CONTENTIONS: Plaintiff contended he was traveling at approximately 35 to 40 mph when his motorcycle's wheels suddenly went over a series of utility-hole covers on the roadway, causing him to lose control of his handlebars, and be ejected from his motorcycle. Plaintiff's feet hit the curb, causing injuries to his ankle and feet. Plaintiff argued that the condition of the utility-hole covers. Plaintiff claimed the utility-hole covers were depressed in the roadway because they lacked maintenance, were deteriorated, and not level. Plaintiff asserted causes of action for dangerous and unsafe condition due to the deterioration and depression of the utility cover, and that Zayo Group failed to maintain the utility cover level to the roadway after the city concluded work on the roadway.

DEFENDANT'S CONTENTIONS: Defendants denied the allegations.

INJURIES: Plaintiff sustained injuries to both of his ankles and his feet. Plaintiff was taken to Cedars-Sinai Medical Center where he was treated for a type IV fracture dislocation of the right talar neck with a comminuted right medial malleolar fracture of the right ankle and multiple abrasions and lacerations. He also underwent open reduction and internal fixation surgery on his right ankle. Plaintiff claimed residual pain in both his knees and his ankles, as well as numbness in his left foot.

DAMAGES: Plaintiff sought \$61,000 in past medical costs, an unspecified amount in future medical costs, and past and future pain and suffering.

INSURER: Travelers Property Casualty Corp. for Zayo Group.

RESULT: The parties settled the matter during mediation for \$600,000, which included \$300,000 from the city's insurance, and \$300,000 from Zayo Group's insurance carrier.

OTHER INFORMATION: Plaintiff also sued various other defendants that were ultimately dismissed from the case after it was established that the City of Los Angeles owned the roadway, and Zayo Group (which was also erroneously sued as "Zaya" Group) owned the subject utility cover.

FILING DATE: Nov. 8, 2013

## INTELLECTUAL PROPERTY

### TRADEMARK INFRINGEMENT False Designation of Origin

Verdict: \$4,700,000

CASE/NUMBER: AOP Ventures Inc. v. Steam Distribution LLC, One Hit Wonder Inc., Anthony Tellez III, and Does 1 to 10 / 5:15-cv-01586