



HON. JOHN M. TRUE III (Ret.)

Mediator | Arbitrator | Discovery & Judicial Referee

Representative Cases

LABOR & EMPLOYMENT

WRONGFUL TERMINATION, DISCRIMINATION, HARASSMENT

- Mediated approximately a dozen cases in which women employed by a large East Bay oil refining and distribution company complained of sex discrimination in promotional opportunities. The defendant company denied liability but agreed to settle a large number of individual claims through mediation.
- Mediated an employee's claims against an East Bay luxury automobile dealer for employment discrimination, sexual harassment and wage & hour violations. The plaintiff claimed that she had been severely verbally abused and subjected to unwanted touching. She also asserted that she was not provided proper meal and rest breaks. The defense alleged that plaintiff evidenced consent or willingness to engage in the behavior to which she objected. The matter was resolved in mediation.
- Mediated claims of race discrimination, retaliation and wrongful termination by an individual employee of a Northern California utility. The employer asserted that the individual was himself acting inappropriately in the workplace, failed to follow directions or heed warnings, and therefore was lawfully terminated.
- Mediated a claim of disability discrimination by an individual employed for a total of two weeks by a company that manufactured and distributed medical devices. Claims also included wage and hour violations. The case settled.
- Mediated a dispute between an employee and a well-known Berkeley California produce and grocery market. Employee claimed that he had been discriminated against and wrongfully terminated; employer asserted that the employee had been disciplined according to the employer's progressive discipline system and

ultimately terminated as a result of that process. The parties were able to settle the matter in mediation.

- Arbitrated a case in which a female African-American employee of an East Bay coffee maker and retail distributor claimed race and gender discrimination. The employer asserted that the employee failed to meet performance standards and was disrespectful to her supervisors and managers. After numerous warnings and write-ups, she was terminated.
- Arbitrated a matter in which an employer based in France sued the manager of its California subsidiary for fraud and conversion based on allegations of falsifying and otherwise manipulating receipts for business expenses. The employee counterclaimed alleging race and gender discrimination. The case involved a week-long arbitration hearing, post-hearing briefing, and issuance of an award.
- Plaintiff, an apprentice ironworker, complained that he was subjected to extremely demeaning, sexually explicit comments and gestures by his male supervisor, and later to similar comments by male coworkers, and that he was also subjected to physical threats by coworkers in retaliation for his complaints about his supervisor. The defendant changed plaintiff's work site to separate him from his harassers, but his union suspended him from its apprenticeship program and, after the suspension expired, his employer did not rehire him. Granted summary judgment to employer under then current law. Decision upheld on appeal.
- Handled a case in which a City Administrator claimed that she had been discriminated against on account of her gender by the Mayor and that the Mayor had demanded that she approve of the expenditure of public funds for his private purposes. The City and the Mayor denied her charges and asserted, as a reason for her termination, a highly publicized incident in which the Administrator appeared to have intervened with the Police Department on behalf of a relative which allegedly caused the Mayor to lose confidence in her. Jury found against plaintiff.
- Handled a case in which a detective in the Oakland Police Department claimed that he had been discriminated against on account of "perceived religious affiliation" after he was discharged from the force. The City defended on the grounds that the termination was justified and that the detective's "perceived religion" had nothing to do with his termination. The detective had been involved in a highly

controversial investigation in the murder of an African-American journalist by an individual affiliated with an Islamic bakery in Oakland. Granted summary judgment.

- Handled a case in which an Oakland Police Department supervisory employee was discharged along with others in connection with allegations of widespread falsification of search warrants presented to Alameda County judges for execution. Employee alleged that she was singled out for discriminatory treatment on account of her gender. Before filing suit, she had exercised her rights in a union grievance proceeding ending in an arbitration in which she did not prevail. Granted summary judgment.
- A union-represented employee of the Port of Oakland claimed that she was harassed and discriminated against on account of her gender and sexual orientation. She also claimed that she had been singled out for adverse treatment because of her grievances and other activities in protest of allegedly discriminatory conduct. Granted summary adjudication as to some claims; jury found for defendant on retaliation cause of action.
- A female employee of a trucking company alleged that she had been subjected to unwanted attention, verbal comments, and touching by the male owner of the business. The defendant denied the conduct, denied that it was unwanted and proffered after-acquired evidence to show that the plaintiff would not have been hired had the defendant known of certain pre-hire conduct. Jury found for plaintiff.
- Female employee of a large, nonprofit hospital and healthcare organization claimed that she was subjected to sexual harassment by her supervisor who, according to the employee, touched her inappropriately and made inappropriate verbal comments and demands. The supervisor and the hospital vehemently denied her claims. The case was greatly complicated by the fact that both the employee and the supervisor remained employed by the hospital in the same work unit in which the allegedly harassing conduct took place. After jury verdict, granted a new trial to defendant. Plaintiff's appeal denied, and case was tried again.
- An employee of a large Oakland California medical marijuana dispensary sued the dispensary for wrongful termination and other torts. The case settled prior to trial after a considerable amount of motion practice, including in limine motions.

- Successfully mediated a claim by a senior employee of a major high-tech company that he had been slapped in a meeting by his supervisor. He left work on disability and claimed that he was constructively discharged by this conduct. He also alleged severe emotional distress leading to disruption of his family life and other consequences. The matter settled in mediation.
- A dispute among principals of an East Bay tenant rights organization led to several lawsuits. One of the cases involved a former employee who claimed workplace defamation. Jury found for plaintiff.
- An employee alleged that she was terminated by her employer in violation of public policy after she had chosen to retain counsel to negotiate the terms of a pregnancy leave. Jury's verdict in favor of plaintiff upheld on appeal.

WAGE & HOUR CLAIMS

- Handled two separate but very similar mediations involving class-action wage and hour claims against different East Bay retail food establishments. Causes of action involved unpaid overtime, failure to provide meal and rest breaks, and claims for Labor Code penalties. In each case, defendant claimed that employees were permitted to take rest and meal breaks as required by law. In each case, damage computations played an important role in settlement.
- Mediated an individual wage and hour and discrimination claim against a Fremont retail food establishment which ended in settlement. Plaintiff claimed that she had "risen through the ranks" from dishwasher to manager. She alleged that she had been paid improperly and then terminated without cause and for discriminatory, retaliatory reasons. The defendant denied any discriminatory purpose and asserted that the separation from employment was for cause. The case settled in mediation.
- Mediated and resolved an individual discrimination/wage & hour case by an employee of a skilled nursing facility. The employee claimed that he was required to work "off the clock," and the employer denied this. Employer also asserted that the employee failed to carry out critical job duties resulting in the potential for danger to patients.
- Mediated an individual wage & hour matter involving a courier who claimed that he was required to work "off the clock" while picking up and delivering packages in

the San Francisco Bay area. Provided assistance to both parties in examining time records, pickup and delivery orders, and other evidence in order to arrive at a successful conclusion of the mediation.

- Claimant in a pre-litigation dispute with his former employer asserted that he had been compelled to work “off the clock” and underpaid as a result. He claimed that emails between him and his supervisor established that he had protested this treatment and had been threatened with termination. The defendant property management company denied any compelled overtime work and asserted that the employee had been terminated for cause. The parties were able to resolve the case in mediation.
- Handled a case in which employee claimed that he had been denied overtime pay and rest breaks during his employment at a small chain of Mongolian barbecue restaurants.

EMPLOYEE / INDEPENDENT CONTRACTOR MISCLASSIFICATION

- Purported class action involving claimed misclassification of individuals working for a large real estate sales organization.
- Handled a misclassification matter involving a class-action challenge to the practice of "leasing" cabs to drivers. Case was resolved when summary judgment granted to employee drivers.
- Handled a class-action challenge to the misclassification of small package pickup and delivery drivers as independent contractors rather than employees. Case was ultimately settled.
- Handled a class-action challenge to the use of "independent contractor" status for farm workers in the strawberry industry. The case settled before trial.
- Handled a number of cases involving classification of employees in the fast food industry as “managers” or “assistant managers,” thereby making them exempt under relevant California law and ineligible for nonexempt employee overtime wages and benefits. All of these cases resolved in mediation prior to trial.

- Handled a misclassification challenge involving a nationwide chain of residential business hotels. The case involved misclassification of “managers” and “assistant managers” who were allegedly required, based on the labor budget they were given by corporate headquarters, to perform nonexempt work. The case eventually resolved in mediation.

LABOR DISPUTES

- Appointed by a judge on the U.S. District Court for the Northern District of California to serve as a special master in an ongoing dispute between a union and several of its rank-and-file members. Analyzed and interpreted union documents including its international Constitution and local union bylaws in order to ascertain the rights and responsibilities of the parties under federal labor law. Drafted a special master’s report for the judge, who then requested that I attempt to settle the case. Served as a mediator and successfully resolved the case.
- Mediation involving union member who claimed discrimination and breach of the duty of fair representation because she was not being sent out to construction jobs. The Union denied both, claiming the downturn in construction work was the reason for lack of work.
- Selected by a Bay Area theater chain and a local of the Musicians Union to preside over a panel arbitration arising from a member grievance having to do with working conditions of orchestra members in the pit. Issued an award resolving the grievance.
- Arbitrated a case involving a grievance of an employee of a Bay Area Superior Court and Local 1021 of the SEIU. After a three-day hearing involving oral testimony and documentary evidence, issued an award resolving the grievance.

EMPLOYMENT AGREEMENTS / BREACH OF CONTRACT

- A former City Manager sued the City and one or more City Council Members after her contract of employment was not renewed. She alleged breach of contract, tortious interference and other causes of action. Case was resolved when defendants’ anti-SLAPP motion was granted.

- Participated as a panel arbitrator in a series of cases involving disputes over severance pay for laid-off employees of a major pharmaceutical company. Presided over several hearings and issued awards in each one.
- In response to a complaint alleging fraud in the inducement of an employment agreement, the employer filed a motion to dismiss under FRCP Rule 12(b)6. The matter was resolved in a mediated settlement.

INVASION OF PRIVACY

- Handled a class-action case challenging a publishing company's policy of requiring a urinalysis drug exam of all applicants for editing and copy editing positions. Plaintiffs claimed that the testing program invaded applicants' right to privacy under Cal. Const. Art I, Section, 1.
- Handled a Fourth Amendment class-action challenge to INS factory raids which was tried over the course of 10 weeks and involved upwards of 80 witnesses, most of whom spoke only Spanish. The matter was settled during the course of trial.