

REPRESENTATIVE CASES FOR ANDREW S. ALBERT, ESQ.

Employment

Sexual harassment claim arising out of an encounter between a company president and a subordinate employee at a national convention wherein the employee claimed to have been taken to a strip club against her will and then groped by the company president. Settlement reached for a confidential amount.

Wage and hour case claiming misclassification of warehouse employee as a manager requiring him to work excessive overtime without compensation. Case settled for a confidential amount accomplished through a payment plan secured against a stipulated judgment.

Highly compensated bank vice president in charge of a mortgage unit claiming breach of contract for failure to pay performance bonuses over a two year period. Case settled with a mediator's proposal for a confidential sum.

Long-term university employee filed claim arising from allegations of racial and age discrimination. Plaintiff, after having agreeing to settlement of the case, exercised right to rescind the settlement agreement (age discrimination provision) causing his lawyer to withdraw from the case. After three mediation sessions, a global settlement of all claims was reached, including retirement and severance benefits.

A wrongful termination case was brought against a vocational school alleging that the plaintiff was discriminated against for socializing with a subordinate employee. She alleged racial discrimination while the school claimed that she was in violation of the non-fraternization policy of the school. The case was settled with a mediator's proposal.

Personal Injury

A case was brought alleging major injuries that were suffered as a result of a police cruiser hitting a bicyclist. The case was settled against the public entity employing the Police Sergeant driving the car.

\$6 million settlement involving four plaintiffs, arising out of a head on collision caused by a drunk driver. All plaintiffs suffered serious injuries were left to obtain their share of the limited insurance proceeds. Through a series of face to face and follow up, an allocation was agreed to.

A public entity sued for an alleged defective road condition, causing the car in which plaintiff's vehicle went out of control after striking a pothole. Plaintiff suffered neck injuries. The case settled for \$475,000.

Claim against public entity alleging dangerous road design resulting in brain damage to plaintiff, disputed by public entity settled for \$800,000.

A case on behalf of an injured worker run over at a construction site due to the negligence of a contractor hired by a governmental entity to build a public roadway was settled for \$1,650,000. Brain damage and orthopedic injuries were alleged.

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Multiple plaintiffs were injured in a two car collision, including the wrongful death of one passenger. Liability as to one of the defendants was hotly contested with the clearly liable defendant having limited insurance coverage. The case was settled for \$1,550,000.

Commercial

A dispute arose between two San Diego-based car dealerships regarding the transfer of ownership. The dispute centered around inclusion of inventory within the original purchase. Both parties seemed oceans apart in this transaction involving \$500,000 purchase. The case resolved after a long and contentious day of mediation.

Real estate partnership dissolution case was settled after a difficult mediation, with both sides presenting claims and/or cross claims. The settlement was made possible only after careful review of the accounting documents presented by both parties.

Two cases were consolidated arising out of a series of business transaction in which principals in a start up company sued each other for various breaches. After an unsuccessful mediation in front of another mediator, the case was settled despite very strongly held personal feelings on both sides.

Elder Abuse

Claims of elder abuse were made arising from death of Alzheimer's patient due to neglect at a nursing facility. Case resolved for \$149,000.

A mentally retarded woman being cared for at a facility without proper licensing and staffing was allowed to wander off through an open gate. She was later kidnapped, raped and hit by a car when it is assumed she wandered into traffic. The case was settled at mediation with personal contributions from the operator of the facility and the landlord.

Civil Rights

An excessive force case was brought on behalf of a young man who claimed to have wrongfully beaten when being taken into custody for the alleged theft of a neighbor's truck. The plaintiff claimed that the police thereafter had it in for him to the point where he was repeatedly harassed and intimidated for minor and inconsequential behavior. The police responded that the plaintiff had initiated each of the incidents and on two occasions was found to be in possession of banned substances. The case was settled for \$400,000 after two mediation sessions and significant follow up.

Legal Malpractice

Competing claims between attorney and former client arising out an underlying case lost at trial. Attorney sued client for unpaid bill, in response the client sued attorney for legal malpractice. Confidential Settlement reached after very contentious litigation.

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Two lawyers sued for allegedly failing to bring case for two plaintiffs in the proper court under proper theories of recovery resulting in unnecessary litigation in excess of ten years involving several trials and appeals. After three sessions and countless hours of follow up, settlement was reached for a confidential amount.

Medical Malpractice

A woman suing a hospital and its nurses claiming that she was dropped by the nurses while they were making a transfer of the patient from bed to chair resulting in a broken hip and spinal injuries. The hospital claimed that the woman's pre-existing conditions were the cause of her problems and that the fall was not their responsibility. The case settled after weeks of follow up with the parties.

Settlement was reached at mediation on behalf of a woman suing her plastic surgeon for an alleged botched tummy tuck, with allegations of numerous unnecessary procedures having been accomplished.

A man injured in a bar fight alleged the loss of vision in one eye due to a surgeon and hospital's negligence in monitoring him following surgery resulting in retinal hemorrhage. The case settled only after countless hours of follow up with counsel for a confidential sum.

A wrongful death case was settled with the adult plaintiffs being self represented in a case arising out of the death of their mother. After extensive discussions regarding the MICRA limitations, the plaintiffs agreed to the settlement.

A tile setter brought suit for negligence in the treatment of a hand fracture resulting in a poor recovery from the injury and his inability to work in his chosen trade. Counsel had become so alienated that the mediation occurred over several weeks by telephone and separate meetings with each side. The case was settled after Mr. Albert was trusted with confidential sub rosa films that he persuaded the defense to allow him to share with plaintiff's counsel.

Medical Device

The wrongful death case against a manufacturer of a heart device was settled at mediation for a confidential amount. The plaintiff alleged a product defect resulted in the death of her decedent and that the defendant manufacturer was aware of the problem, yet failed to recall the product.

Insurance

Ten cases were mediated between first party insurers and home owners who lost houses in the 2007 San Diego wildfires, resulting in all cases being settled.

A death benefit claim on behalf of a husband whose wife died after making application for life insurance but before premiums were tendered and policy accepted by the insurance carrier was settled against the insurer and the selling broker through separate mediator's proposals.

A death benefit claim was brought on behalf of surviving daughters of an estranged father who died following a battle with substance abuse. The insurance company rescinded the policy within the two year contestability period claiming non disclosure and misrepresentation in the application by the insured. The case settled for a confidential sum.



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Lemon Law

Case involved a motor home (lemon law), failure to disclose prior accident in which the motor home was involved. Claim also alleged that mold had infested the motor home. Case resolved for repurchase of motor home and payment of attorneys fees and damages after two sessions and numerous telephone follow-up.