Recent Developments in Disability Discrimination Law

CELC 2016 Annual Meeting

Eric Amdursky
Adam Karr
State and Federal Agency Increased Emphasis on Disability Discrimination Claims
California Department of Fair Employment and Housing ("DFEH") 2015 Annual Report

- Received a total of 8,507 complaints of disability discrimination
  - 41.5% of all complaints received
  - second only to complaints of retaliation
- Filed 11 civil complaints alleging disability claims
  - 40.7% of all civil complaints filed
Equal Employment Opportunity Commission ("EEOC") 2015 Enforcement and Litigation Data

- Strategic Enforcement Plan identifies issues under the ADA as one of six national priorities
- Received 26,968 charges of disability discrimination
  - 30.2% of all charges received
  - third behind retaliation and race
  - increased 6% from prior year (largest of all categories)
  - recovered $128.7 million through charges (i.e., settlements)
- Filed 53 suits with ADA claims
  - 37.3% of all merits suits filed
  - second only to Title VII suits
  - recovered $6.2 million through litigation
Types of Disability Claims

1. Disability Discrimination
2. Failure to Accommodate
3. Failure to Engage in the Interactive Process
4. Retaliation
Disability Discrimination

- General Developments:
  - New form of protected activity
  - Burden of proof for discriminatory intent
  - Self-serving evidence
  - New "significant burden" test?

- Elements of Claim:
  1. Suffered a disability
  2. Otherwise qualified to do the job, with or without reasonable accommodation
  3. Suffered an adverse employment action
Ab 987

- Amends Gov't Code § 12940 to clarify that a request for a reasonable accommodation on the basis of disability is a protected activity.
- An employer cannot discriminate against a person for making a request for reasonable accommodation, regardless of whether it was granted.
Wallace v. County of Stanislaus
245 Cal. App. 4th 109 (Feb. 25, 2016)

- Deputy sheriff became disabled as a result of knee injuries and accepted a position as a bailiff.
- Following a subsequent medical evaluation, the County removed the deputy from his bailiff position and placed him on unpaid leave because it mistakenly believed based on a medical report that he could not safely perform his bailiff duties even with a reasonable accommodation.
- Deputy sued County for disability discrimination under FEHA.
- Jury returned a verdict in favor of the County because the County did not regard or treat the deputy as disabled.
Wallace v. County of Stanislaus
245 Cal. App. 4th 109 (2016) (cont’d)

- **Held:** Establishing discriminatory intent in a direct evidence case does not require proof of the employer’s animosity or ill will. Instead, plaintiff can prove discriminatory intent by showing an actual or perceived disability was a **substantial motivating factor** for adverse action.
  - Contrasts with other discrimination contexts (e.g., race, age, sex), in which an employer’s “honest but mistaken belief” in legitimate reasons for adverse action can preclude liability.
  - Court expressly cautioned that the use of “animus” and “ill will” should be limited to discrimination cases involving proof by circumstantial evidence.
  - Court reversed jury finding, held county liable for disability discrimination, and remanded case solely to determine damages.
Nigro v. Sears, Roebuck & Co.
784 F.3d 495 (9th Cir. 2015)

- District court entered summary judgment for employer on plaintiff's FEHA disability discrimination claim.
  - Court disregarded plaintiff's evidence because it was his own self-serving uncorroborated testimony.
- Ninth Circuit held that plaintiff could use a self-serving declaration to create an issue of fact and defeat summary judgment.
  - But a court can disregard a self-serving declaration that states only conclusions and not admissible facts.
  - Summary judgment in disability discrimination cases is difficult: "It should not take much for plaintiff in a discrimination case to overcome a summary judgment motion."
Young v. United Parcel Service, Inc.
135 S. Ct. 1338 (2015)

- UPS declined to accommodate a pregnant employee's lifting restrictions with a light duty assignment and placed her on unpaid leave.
- The employee sued UPS for pregnancy discrimination under the Pregnancy Discrimination Act, arguing that UPS had policies accommodating other employees similarly unable to work.
- Supreme Court held that a pregnant employee may:
  1. Use the McDonnell Douglas burden shifting framework to establish a discrimination claim under the PDA.
  2. Make out a prima facie case of discrimination by showing that the employer did not accommodate her but did accommodate others similar in their ability or inability to work.
Young v. United Parcel Service, Inc.
135 S. Ct. 1338 (2015) (cont’d)

3. Establish pretext by showing that the employer’s policies place a “significant burden” on pregnant workers and its legitimate, nondiscriminatory reasons are not sufficiently strong to justify that burden.

4. Create an issue of fact regarding whether a significant burden exists by showing that the employer accommodates a large percentage of non-pregnant workers while failing to accommodate a large percentage of pregnant workers.

- Policies or practices that unevenly impact one or more categories of employees cannot be justified only by claims that it is more expensive or less convenient to include those categories.
  - Court reasoned: “Why, when the employer accommodated so many, could it not accommodate pregnant women as well?”
Young v. United Parcel Service, Inc.
135 S. Ct. 1338 (2015) (cont’d)

- **Open question:** Can "significant burden" test be applied to non-PDA disability discrimination claims under the McDonnell Douglas framework?
Castro-Ramirez v. Dependable Highway Express, Inc.
2 Cal. App. 5th 1028 (April 4, 2016)

- For several years, plaintiff’s supervisors scheduled him so that he could be home at night to administer his son’s daily dialysis.
- A new supervisor changed plaintiff’s schedule and terminated him for refusing to work a shift that did not permit him to be home in time for his son’s dialysis.
  - Held: Discrimination based on an employee’s association with a disabled person violates FEHA.
- Open question: Does FEHA require an employer to engage in an interactive process to assess whether there is a reasonable accommodation to allow an employee to perform the essential function of his or her job while assisting someone with a disability?
Higgins-Williams v. Sutter Medical Foundation

- Plaintiff reported to doctor that she was stressed because of interactions with HR and her supervisor, she was diagnosed with anxiety, and employer granted her medical leave.
- Plaintiff returned to work for a month and then took another leave after a panic attack resulted from an interaction with her supervisor, she never returned to work, and her employer terminated her.
- *Held:* Anxiety and stress related to a supervisor's standard oversight of an employee's job performance does not constitute a disability.
Morriss v. BNSF Railway Co.
817 F.3d 1104 (8th Cir. 2016)

- Plaintiff applied for a machinist position with defendant and was given a conditional offer of employment contingent on a medical review because the position was safety sensitive.
- Defendant’s policy was not to hire applicants for safety-sensitive positions that had a body mass index ("BMI") greater than 40, and plaintiff’s BMI was 40.4 and 40.9 at two exams, so defendant revoked his offer.
- Plaintiff alleged that defendant discriminated against him under the ADA based on his obesity.
- Held: Obesity on its own is not a disability under the ADA; it must result from an underlying physiological disorder or condition.
Morriss v. BNSF Railway Co.
817 F.3d 1104 (8th Cir. 2016) (cont'd)

- Note that the Sixth and Second Circuits have agreed with the Eighth Circuit that obesity requires an underlying physiological condition to be a “disability.” See EEOC v. Watkins Motor Lines, Inc., 463 F.3d 436 (6th Cir. 2006); Francis v. City of Meriden, 129 F.3d 281 (2d Cir. 1997).

- California likely agrees, holding in an FEHA case that a plaintiff was required to show her obesity was related to a physiological disorder for it to constitute a disability. See Cassista v. Comty Foods, 5 Cal. 4th 1050 (1993).
Neely v. Benchmark Family Services

640 Fed. Appx. 429 (6th Cir. 2016)

- Plaintiff claimed to suffer from sleep problems but was never diagnosed with a sleeping disorder. His employer was unhappy with his performance and falling asleep at work, so it gave him a verbal reprimand and demotion.

- Held: Plaintiff's sleeping problems were not a disability under the ADA because they were not caused by a physical or mental impairment and did not substantially limit a major life activity.

- Question: Same result under FEHA?
  - FEHA requires only that a disability "limit" a major life activity, not "substantially limit" like the ADA.
  - "This distinction is intended to result in broader coverage under the law of this state than under that federal act." Gov't Code § 12926.1(c).
Hurtt v. International Services, Inc.
627 Fed. Appx. 414 (6th Cir. 2015)

- Traveling salesman suffered anxiety and depression, requested more time between assignments to recuperate and sleep, and submitted an FMLA request for time off.
- Employer terminated plaintiff’s $70,000 per year draw and placed him on commission-only, which resulted in him owing his employer over $22,000 advanced under the draw.
- Plaintiff never returned to work, claiming that his new pay scale made it impossible for him to return.
- District court granted summary judgment to employer.
- Held: Sixth Circuit reversed finding (a) a constructive discharge can serve as an adverse action for a disability discrimination claim; (b) an individual does not have to prove a disability to pursue a retaliation claim; and (c) a good faith request for accommodation is protected activity, sufficient to support a claim of retaliation.
Failure to Accommodate Disability

- Elements of claim:
  1. Suffered a disability
  2. Can perform essential functions of job, with or without reasonable accommodation
  3. Reasonable accommodation
Failure to Accommodate – Essential Functions of the Job

Neufeld v. Winco Holdings, Inc.

- In FEHA action, the employer providing intermittent leave as an accommodation to a cashier who suffered from anxiety.
- After plaintiff had several absences unrelated to anxiety or for which he did not provide medical documentation, he was terminated for excessive unexcused absences.
- Plaintiff argued that the in-person aspects of his cashier position were not essential because other employees could be reassigned to fulfill them.
- Held: An employee cannot establish that job functions are not essential by claiming that the employer could have shifted others into the employee’s position to perform the essential functions temporarily.
EEOC v. Ford Motor Co.
782 F.3d 753 (6th Cir. 2015), rev'ing en banc
752 F.3d 634 (6th Cir. 2014)

- A resale buyer for Ford was required to frequently meet in person with suppliers, coworkers, and customers, often at a moment’s notice.
- Plaintiff requested to work remotely as accommodation for irritable bowel syndrome. Ford denied her request and terminated her when her attendance did not improve.
- EEOC sued Ford on the employee’s behalf for failure to accommodate under the ADA and argued attendance was not an essential function of her job.
- Held: En banc panel reversed earlier Sixth Circuit decision and found regular in-person attendance is an essential function of a highly interactive position.
EEOC v. Womble Carlyle Sandridge & Rice, LLP
616 Fed. Appx. 588 (4th Cir. 2015)

- Support services assistant employed by law firm performed a wide variety of tasks, including heavy lifting and working alone.
- Plaintiff was diagnosed with breast cancer and developed a condition triggered by heavy lifting. She was initially restricted from lifting more than 10 pounds, and later more than 20 pounds.
- Law firm initially accommodated her with light duty, but the light duty work eventually ran out. Law firm considered whether it could transfer her to another position, but the positions she might have qualified for were already filled.
Failure to Accommodate – Essential Functions of the Job

EEOC v. Womble Carlyle Sandridge & Rice, LLP
616 Fed. Appx. 588 (4th Cir. 2015) (cont’d)

- Law firm placed her on a medical leave and then terminated her when the leave expired.
- District court granted summary judgment to employer finding that Plaintiff was not a qualified individual under the ADA because she could not perform essential functions of job.
- **Held:** Fourth Circuit affirmed finding that a multi-faceted job may include essential functions even though they are not utilized frequently.
  - Here, even though Plaintiff was primarily assigned to the copy room, she could have at any time been called upon for heavy lifting, which she could not do.
Swanson v. Morongo Unified School District


- After probationary teacher was diagnosed with breast cancer, District offered her a 5th grade teaching position, but she objected because it would be her third assignment in three years and her health prevented her from training for the new position.
- She requested a vacant 2nd grade position because she had recent experience at that grade level but was instead assigned to kindergarten, which she had not taught in nearly 30 years. She subsequently received poor reviews and her contract was not renewed.
- Teacher sued for various disability discrimination claims, including failure to accommodate.
- Trial court granted summary judgment for the District.
Swanson v. Morongo Unified School District
232 Cal. App. 4th 954 (2014) (cont'd)

- **Held:** Court of Appeal reversed summary judgment of disability discrimination claim because employer could have done more to accommodate teacher battling cancer. The court explained:
  - When providing a reasonable accommodation, an employer *does not* have an obligation to create a new job, reassign another employee to create a vacancy, or promote a disabled employee.
  - However, an employer does have a **duty** to reassign a disabled employee if an *already funded, vacant* position at the same level exists.
  - Moreover, a disabled employee seeking reassignment to a vacant position is entitled to preferential consideration.
Nealy v. City of Santa Monica


- A solid waste equipment operator became disabled from knee injuries that prevented him from heavy lifting or kneeling.
- He argued that the City could have accommodated him by eliminating the heavy lifting or kneeling essential functions of his position, or by providing him leave until a position for which he was qualified opened up.
- Held: (1) Elimination of an essential function is not a reasonable accommodation; and (2) an employer is not required to provide indefinite leave to await possible future vacancies.
**Canupp v. Children's Receiving Home of Sacramento**


- A children's home health and wellness manager's duties included providing direct medical care.
- She took a leave of absence for back pain. Her employer accommodated her with additional leave but terminated her when she was unable to return.
- She sued for failure to accommodate under FEHA, among other claims, arguing that she should have been provided an accommodation of working from home. District court granted summary judgment to employer.
- **Held**: Working from home was not a reasonable accommodation under FEHA because plaintiff could not remotely fulfill her essential duty of providing direct medical care.
EEOC v. Ford Motor Co.
782 F.3d 753 (6th Cir. 2015), rev'ing en banc
752 F.3d 634 (6th Cir. 2014)

- Discussed case above regarding essential functions.
- A resale buyer for Ford was required to frequently meet in person with others. She requested to work remotely as accommodation for irritable bowel syndrome.
- Ford denied her request but offered her other accommodations, all of which she refused, and Ford terminated her when her attendance did not improve.
- The EEOC sued Ford on the employee’s behalf for failure to accommodate under the ADA. District court granted summary judgment to Ford.
- Held: Because regular, in-person attendance is an essential function of a highly interactive position, working remotely is not a reasonable accommodation.
Employee requested time off for a medical procedure after she was diagnosed with a heart condition, but employer terminated her prior to discussing her request.

She sued for various claims under FEHA, including failure to accommodate and engage in the interactive process.

Trial court granted summary judgment in employer's favor because employee was terminated before any denial of her time off request.

Court of Appeal reversed and remanded on those claims to determine whether employer engaged in interactive process and whether termination was pretextual.

Held: An employer cannot terminate an employee in lieu of providing a reasonable accommodation or engaging in the interactive process because the point of that process is to find an accommodation to avoid termination.
Mendoza v. The Roman Catholic Archbishop of Los Angeles
824 F.3d 1148 (9th Cir. 2016)

- A full-time bookkeeper for a small church took sick leave for ten months, during which the church pastor took over her duties and determined that the job was part-time.
- When she returned, there was no full-time position, so pastor offered her a part-time job, which she declined.
- Plaintiff filed a claim for failure to accommodate under the ADA. District court granted summary judgment in favor of employer, and the Ninth Circuit affirmed.
- Held: An employee has the burden to prove that a reasonable accommodation was available, and plaintiff could not show that there was a full-time position for her.
  - The church’s legitimate, nondiscriminatory reasons for not returning plaintiff to full-time work were not pretextual.
Failure to Engage in the Interactive Process

- **Elements of claim:**
  1. Employee requests a reasonable accommodation, or the employer becomes aware of the employee's need for an accommodation.
  2. Employer did not engage in an interactive process with employee to select an appropriate accommodation.
2016 WL 4764674 (E.D. Cal. Sept. 13, 2016)

- Plaintiff was diagnosed with early degenerative disc disease and took a protected leave of absence. She requested and was granted additional leave, but her employer denied her second request for additional leave and terminated her in September 2013.
- In October 2014, plaintiff sued her employer under FEHA for failure to accommodate her disability and engage in the interactive process.
- In August 2015, plaintiff notified her employer that she was able to return to work with accommodations, the employer offered her job back, and she has been working with accommodations since that time.
- A central issue in the case was whether a reasonable accommodation was available when she was terminated in September 2013.

Failure to Engage in the Interactive Process – What is the Employee’s Burden?

Equal rights
2016 WL 4764674 (E.D. Cal. Sept. 13, 2016) (cont’d)

- The district court observed that there is a split of authority on the availability of a reasonable accommodation:
  - One line of cases holds that an employee bears the burden of proof that a reasonable accommodation was available.
  - Another line of cases holds that establishing an interactive process claim does not depend on showing that a reasonable accommodation was available.
- District court agreed with the first line of cases but concluded that there were too many factual disputes to assess liability at this stage.
Moore v. Regents of the University of California

- Discussed case above regarding reasonable accommodation.
- Trial court granted summary judgment in employer’s favor because employee was terminated before any denial of her request for time off as an accommodation. Court of Appeal reversed and remanded.

- *Held*: An employer cannot terminate an employee in lieu of engaging in the interactive process.
  - The point of the interactive process is to find a reasonable accommodation to avoid termination.
Thomsen v. Georgia-Pacific Corrugated, LLC

- Plaintiff injured his shoulder and received permanent restrictions from his doctor. Employer accommodated plaintiff by transferring him to a new position.
- Plaintiff requested additional accommodations, and his employer told him to return to his doctor to determine whether additional restrictions were needed. He was later terminated for allegedly refusing overtime.
- Plaintiff sued under FEHA for failure to engage in the interactive process. Employer argued his claim failed because he never returned to his doctor. District court denied employer’s motion for summary judgment.
- Held: FEHA obligates an employer to do more than simply tell an employee to see his or her doctor, so employer did not satisfy its interactive process duty.
Miscellaneous Issues

- **Punitive Damages**
  - To meet the standard for recovery of punitive damages, a plaintiff must show more than merely establishing an employer's liability on plaintiff's underlying claims.

- **Recovery of Attorneys' Fees as Prevailing Party**
  - To recover its attorneys' fees and costs under Government Code section 12965(b), a prevailing defendant in a FEHA action must show either that (1) the plaintiff's claim was objectively without foundation when brought, or (2) the plaintiff continued to litigate after it became clearly so.
Recent California Jury Verdicts in Disability Discrimination Cases

- **$500,000 jury verdict**
  - *Huerta v. Pacesetter, Inc. dba St. Jude Medical*, Los Angeles County, Case No. BC526645 (08/20/15)
    - Plaintiff sued for disability discrimination, failure to engage in the interactive process, and failure to accommodate after new supervisor required her to perform tasks she was not required to perform for prior five years as an accommodation. ($378K in economic damages, $25K in non-economic damages, and $96K in punitive damages.)

- **$550,000 jury verdict**
  - *Snead v. Chino Valley Unified School District*, San Bernardino County, Case No. CIVRS1101184 (06/17/15)
    - Plaintiff suffered back injury and requested various accommodations. Defendant did not propose any accommodations but claimed plaintiff’s request would be an undue burden and terminated plaintiff. ($217K in economic damages and $333,000 in non-economic damages.)

- **$1.6 million jury verdict**
  - *Doe v. Cal. Dept of Corrections and Rehabilitation*, San Diego County, Case No. 31-2012-00100860 (02/13/14)
    - Plaintiff sued for failure to accommodate and engage in the interactive process after defendant denied her request for a quiet place to work and terminated her.
Recent EEOC Verdicts/Settlements in Disability Discrimination Cases

- $277,565 jury verdict
  - *EEOC v. Dolgencorp, LLC dba Dollar General Corp.*, E.D. Tenn., Case No. 14-cv-441 (9/19/16)
    - Cashier's supervisor would not allow her to keep juice near her register in connection with her diabetes, and she was terminated after she drank juice in response to low blood sugar and paid for it after episode passed.

- $165,000 settlement
  - *EEOC v. New Mexico Orthopaedics Associates, D.N.M.*, Case No. 15-cv-557 (9/01/16)
    - Defendant fired temporary employee and failed to hire her for full-time position because of her relationship with her disabled three-year-old daughter.
    - Settlement also requires annual anti-discrimination training and mandatory reporting to the EEOC of any disability discrimination complaints.
Recent EEOC Verdicts/Settlements in Disability Discrimination Cases (cont.)

- **$90,000 settlement**
  - *EEOC v. Wal-Mart Stores, Inc.*, N.D. Ill., Case No. 14-cv-50145 (08/12/16)
    - Wal-Mart had provided plaintiff with intellectual disabilities a written list of daily tasks as an accommodation but stopped for some reason and then terminated him for failing to perform certain duties.
    - Settlement also requires anti-discrimination and reasonable accommodation training and mandatory reporting of requests for accommodation and discrimination complaints to EEOC.

- **$112,000 settlement**
  - *EEOC v. Amtrak, W.D. Wash.*, Case No. 15-cv-1269 (08/10/16)
    - Amtrak withdrew employment offer after learning applicant had history of epilepsy, even though his doctor had reported his condition was controlled with medication and he was seizure-free for years.
Recent EEOC Verdicts/Settlements in Disability Discrimination Cases (cont.)

- $8.6 million settlement
  - *EEOC v. Lowe's Companies, Inc.*, C.D. Cal., Case No. 13-cv-03041 (05/13/16)
    - Lowe's was accused of engaging in a pattern and practice of discriminating against disabled employees by firing them and failing to provide reasonable accommodations when their medical leave exceeded the company's max leave policy.
    - Settlement also requires Lowe's to retain a consultant to review and revise company policies, implement ADA training, develop a centralized tracking system for accommodation requests, maintain an accommodation log, post documentation related to the settlement, and regular reporting to EEOC to verify compliance with the settlement.
Companies of all sizes turn to Eric Amdursky for assistance with a variety of labor and employment matters. Eric is the Managing Partner of O’Melveny’s Silicon Valley office. He represents clients in federal and state court cases involving high-stakes claims of employment discrimination, retaliation, wrongful discharge, sexual harassment, executive compensation disputes, and breach of fiduciary duty. Eric defends and prosecutes claims regarding non-competition agreements, “corporate raiding,” unfair competition, and trade secret misappropriation. He has litigated several cases regarding employment issues arising from mergers and acquisitions, as well as disputes among venture capital partners.

Eric assists Fortune 500, middle market, and start-up companies in implementing reductions in force; handling termination and discipline decisions; and counseling clients on complying with wage and hour, disability, and family and medical leave laws. He also conducts sexual harassment investigations and sexual harassment prevention training.

Eric provides labor and employment law expertise on corporate transactions. He drafts non-competition agreements, employment agreements, severance agreements, change-in-control agreements, and provides advice on other labor and employment law issues arising out of mergers and acquisitions.


**Illustrative Professional Experience**

- Represented a Fortune 500 semiconductor company in obtaining a TRO and preliminary injunction against several former employees, as well as their new employer, for misappropriating trade secrets and breaching a non-competition agreement. The Ninth Circuit subsequently affirmed the order granting the preliminary injunction and ordering an asset freeze against the competitor and its CEO.

- Served as lead trial counsel for Fortune 500 online company in obtaining a walkaway settlement and dismissal with prejudice of a quid pro quo sexual harassment case filed by a female subordinate against a female executive.

- Served as lead trial counsel in an arbitration for a land development company that obtained a complete defense verdict and six-figure attorneys’ fee award against a former executive who claimed he was wrongfully denied significant bonuses. The California court subsequently affirmed the arbitration order in its entirety.

- Served as lead trial counsel in an arbitration for a homebuilding company that obtained a complete defense verdict in a wrongful-termination case brought by the former CFO. The arbitrator also ruled in favor of the employer on its counter-claim for defamation and awarded the employer nearly US$500,000 in compensatory damages, punitive damages, attorneys’ fees and costs.
Adam J. Karr represents clients in class action and individual litigation, arbitrations, and before state and federal agencies, principally in labor and employment-related claims. Adam practices before state and federal courts, at both the trial and appellate levels, and has represented clients in a broad range of disputes, including wage and hour matters, contract disputes, non-compete and trade secret litigation, employee benefits claims, and matters arising under the National Labor Relations Act and Railway Labor Act. Adam also has represented clients in claims of employment discrimination, harassment, wrongful discharge, and disputes under the family and medical leave laws.

Adam provides preventive advice to clients on an ongoing basis and assists clients in handling employment-related investigations, employee termination and discipline decisions, drafting employment agreements and policies, layoffs, and compliance with all aspects of labor and employment laws. He also provides assistance on labor and employment law issues arising out of mergers and acquisitions. Adam has been recognized by the Daily Journal as a Top Labor & Employment Lawyer and by Law360 as one of 10 Rising Stars in the United States in the area of labor and employment law.

Adam has represented clients in a variety of industries, including entertainment, financial services, telecommunications, aerospace, professional services, technology, manufacturing, airline, and private equity, among others. In addition to his regular practice, Adam also devotes significant time each year to pro bono matters.

Illustrative Professional Experience

- Counsel to Fortune 500 real estate brokerage company in a class action challenging whether the company’s sales agents (or brokers) should be classified as independent contractors or as employees

- Counsel for major television studio in class action brought by television writers over the age of 40 alleging industry-wide age discrimination against all of the major television networks, studios, and talent agencies

- Counsel for Fortune 500 tax preparation company in nationwide class and collective action alleging failure to provide compensation for continuing education. Obtained summary judgment against 40,000 member class, which was affirmed on appeal. Petroski, et al. v. H&R Block, Inc., 750 F.3d 976 (8th Cir. 2014)

- Trial counsel for worldwide transportation logistics company in trade secrets case arising from the hiring of a national sales director from a competitor

- Counsel for national bank in class action arising from the Bank’s charging of check cashing fees to non-relationship customers. Obtained dismissal of all claims