

PRESENTS

Litigation Department OF THE Year

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Labor & Employment

FINALIST

SHEPPARD, MULLIN, RICHTER & HAMPTON

Richard Simmons wrote the book on California employment law—literally.

The Los Angeles-based Sheppard Mullin partner and author of the “Wage and Hour Manual for California Employers” likes to tell clients that they can hire attorneys who read books on employment law, or they can hire the ones who write them.

In July 2012, in one of the largest class actions Sheppard’s employment practice has ever defended, Simmons and Los Angeles-based partner Daniel McQueen along with associate Morgan Forsey of San Francisco defeated class certification in a suit against Catholic Healthcare West, now called Dignity Health Corp. Plaintiffs attorneys sought to represent several classes exceeding 22,700 current and former nurses in a collective action challenging the nonprofit hospital chain’s practices related to overtime, off-the-clock work, and meal and rest periods.

The sides argued over class certification in July, just after the California Supreme Court’s decision in *Brinker Restaurant v. Superior Court*, a closely watched employment case that some plaintiffs attorneys had predicted would make it easier to win class certification.

Despite the high stakes, Simmons recounted that when the other side brought up settlement, he told plaintiff attorneys,

“I’m not interested. I’m not here to settle. I’m here to beat you.”

The suit, filed in 2008 in San Francisco Superior Court, finally resolved late last year. Added Simmons: “They didn’t get a penny. We never offered a penny.”

Sheppard’s client appreciated the aggressive approach. “They weren’t just looking to litigate the case for a few months and try to reach a settlement,” said Darren Lee, senior vice president for human resources at Dignity Health. “They believed in our position and were willing to fight.”

Simmons’ team was “constantly developing new strategies,” Lee added. “We never felt like we were caught off guard,” he said. “That’s important from a client’s perspective.”

Sheppard lawyers are also busy defending employers against individual claims of discrimination, wrongful termination and retaliation.

Representing St. Jude Medical S.C. Inc. last summer, L.A. partner Tracey Kennedy secured a complete defense verdict in Santa Barbara Superior Court after a nine-day jury trial on sexual harassment, sex discrimination, retaliation and other claims.

In October, Kennedy and her trial team beat back a wrongful termination case for Waste Management Collection & Recycling after a five-day trial in Orange County Superior Court. That case involved a high-level manager who claimed he was

fired for reporting a violation of federal securities laws; the company insisted he was terminated for misconduct and insubordination and resisted pretrial settlement demands that ranged from \$5 million to \$36 million.

Century City-based partner Thomas Kaufman continued the firm’s defense of Wells Fargo in wage-and-hour cases. In May, Kaufman obtained summary adjudication in the complex department of San Francisco Judge John Munter defeating the central claim in a putative class action on behalf of 5,000 home mortgage consultants.

And in *Buchanan v. HomeServices Lending*, Kaufman defeated certification of a class brought by employees of a joint venture of Wells Fargo and HomeSavings of America. A central issue in that dispute had been whether or not its workers were exempt under Department of Labor guidelines. Amid conflicting legal authorities, Kaufman persuaded the judge that they were.

“That standard it sets forth is very favorable,” he said, adding, “Because of our litigation, most people have given up.”

Sheppard’s current case lineup means its employment practice will stay busy. Upcoming matters include three jury trials, an arbitration before the Financial Industry Regulatory Authority and several pending class actions.

— Max Taves