

Judge Brian R. Van Camp, Ret.

Case Summaries

Commercial/Contract

Business Dissolutions, including Fraud

- Two brothers sue their third brother, alleging **breach of partnership agreement and fraud** in the management of their chain of furniture stores.
- Uncle and nephew partners in a dissolved closely-held, family-owned produce wholesaler corporation sue each other for **fraud and interference with prospective business advantage**.
- Bay Area Contractor sues heiress-owner of acreage in Sacramento, alleging **breach of promise** to include him as partner in development and operation of the property, claiming \$3 mm in lost profits.
- Investor who put up \$180,000 for the start-up of a loan brokerage office sued the two operating partners for **fraud** after the venture fails and loses the investment.
- Purchaser of insurance brokerage agency sues seller for rescission, alleging **fraudulent misrepresentation and breach of material representations and warranties**.
- Partners in restaurant and bar venture sue each other to dissolve partnership, alleging **mismanagement, embezzlement and fraudulent misrepresentation**.
- A partner in two gas stations sues his nephew and partner **for dissolution of partnership and fraud**.

Construction Suits

Defects—Complex Civil Litigation Cases

- Numerous Construction Defect/Complex Civil Litigation cases involving large developers/general contractors who then cross-complained against all of their subcontractors.

Contractor-Subcontractors disputes

- A general contractor oversaw the installation of a new roof that blew off and damaged an adjacent building, whose owner sued the general contractor. The general tendered the defense to the roofing sub-contractor under his 'additional insureds' policy, seeking **indemnification**. But the sub had failed to obtain such insurance, so the general sued.

- **Subcontractor sues General Contractor** for concrete pipe furnished and laid in new developments. General had offered sub his payment, but sub tried to get more from owner, then sued general when owner went bankrupt without paying sub.

Construction Defects

- After a contractor had built 70% of a new home for the owner, the owner fired the contractor, saying she'd found someone else to finish it for less and refused payment for the 70% built; contractor sues for **breach of contract**.
- Contractor **sues to collect fees** for plastering home-owner's 5,000 sq. foot dining room. Owner had complained that the "perfect/imperfect finish" did not match that in the adjoining rooms, so required him to re-do it three times. When contractor refused to re-do it a fourth time, owner refused to pay him anything.
- Home-owner sues builder and soils grader for **construction defects**, alleging that the strings setting the base grade of the new house and garage were set too low, resulting in the house lying 5' below the grade of the street, and the garage lying 9' below street level.

Breach of Contract

- Software designer sued credit union for **failure to pay contract price** for software design started, but unfinished. Credit union cross-complains for failure to perform and to recover its initial down payment.
- Seed supplier sues farmer on 'account stated' for seeds delivered to three different fields as ordered by this regular customer. Farmer defends on **Statute of Frauds** and that his Crop Assignment agreement makes the assignee liable for the seeds.
- Business owner stored all his equipment and inventory at a warehouse/yard, all of which was removed by the yard after a one-year period. Business owner sues for **breach of contract**.

Corporate/Shareholders' Disputes

- Shareholders bring **derivative suit** against board chairman and majority shareholder to rescind sale of bulk of company's assets to a corporation owned only by the chairman.
- Limited Partners in a publicly-held tax shelter bring a **class action suit** against the sponsor and its securities brokerage firm, law firm and accounting firm for **breach of contract, fraud and malpractice**.
- National trade association/fraternal order sues its California affiliate for **breach of national charter and bylaws**.

Real Estate

Breach of Purchase & Sale Agreement

- Developer/Buyer of subdivision acreage sues seller for **refusing to tender property** after buyer satisfies all pre-conditions to the sale.

Valuation of Deficiency Judgment Following Foreclosure

- Bank foreclosed on 57 acres of property that had a subdivision map approval for 154 lots, then brought suit against its developer-borrower, for a **deficiency judgment**. The bank and developer disagreed over the actual value of the property and the bank sought a deficiency judgment of \$8 million.

Eminent Domain

- Housing Authority brought **eminent domain** proceedings against over 500 apartment units in a blighted area.

Home Owners Association/Enforcement of CC & R's

- Home Owners' Association sues homeowner for **violation of CC&R's** requiring approval of all construction plans for owner's elevated pool, spa and decking. Neighbor adds a cause of action for invasion of privacy, based on elevation of pool deck and superstructure.

Landlord/Tenant

- After the tenant had gone nine months without paying rent on a large warehouse, the landlord served a seven day notice to quit and stated the amount of rent then due. Tenant defended on the basis that it had served **notice of intent to abate rent** for Landlord's failure to repair.

Quiet Title/Partition

- Suit by one co-partner to **dissolve partnership, quiet title** and evict co-partner.
- Suit by estate of original owner to **cancel title** of decedent's daughter-in-law to the family home, for back rent on the home and an order to evict.

Employment Law

Noncompetition Agreement/Uniform Trade Secret Act

- A company sues former temporary employees for starting an identical company and **misappropriation of trade secrets** (customer lists).

Wrongful Termination/Constructive Discharge in Violation of Public Policy

Plaintiff Required to Endure Intolerable Conditions

- A female employee of granite/marble store faced **sexual harassment by coworkers**.
- A male nurse working subjected to taunting regarding his **sexual orientation**.
- A female sales representative sues for **sexual harassment by management**.

Discrimination--Race/Disability

- A fired car salesman sues for **failure to accommodate** his Hepatitis C illness.
- An Indian/Fiji Islander sues for **racial discrimination** in the workplace.
- Terminated employee/former owner of store alleges **racial animus** as actual reason for firing.

Plaintiff Required to Violate Public Policy--Whistleblower/Retaliation

- A mid-level administrator for Department of Education sues the Department and its Superintendent for **giving Federal ESL monies to non-existent organizations**, in which funds were then used for political purposes.
- Terminated manager alleges **retaliation** for reporting on fellow (government) employees' practice of driving state cars on state time to 'adult-entertainment' restaurants for lunch.

Wage & Hours Disputes

- An employee was offered time off for breaks, but never took them. Following termination, the employee **sued for wages** for all such breaks.
- Fired employee alleges wrongful termination and sues for **wage & hours**.

Embezzlement

- Labor union sued its former General Manager for over-payment of pension, unauthorized cash-out of sick leave and vacation accruals, requiring "donations" of leave from other officers, "twice-paid" expense reimbursement, and other forms of **embezzlement**.

Professional Malpractice

Medical

- A morbidly obese patient sues a doctor for **negligently** inserting a breathing tube into the patient's body.
- Patient suffers from alleged **negligence** due to the entwinement of suture with small intestine.
- Patient alleged that her second hip 'ball' replacement was **negligently** put in akimbo, resulting in pain and necessitating a third hip joint replacement.
- Patient alleges that a doctor **negligently** cut out a cyst from the patient's shoulder, severing a nerve causing great pain and necessitating another surgery.
- A juvenile patient, in the hospital from previously sustained injuries, sues for **malpractice** because the doctor placed the feeding tube into the wrong stomach cavity, almost killing the patient.

Legal

- Attorney advised a retail store operator that her building had a serious mold problem and convinced her to hire him, pay for mold testing and cease rent payments until the landlord fixed the mold problem. The store owner followed his instructions, was evicted and lost her business. Owner sued attorney for **legal malpractice**.
- An attorney hired to perfect a patent for a pedicurist's custom chair/tub/massage product sued to collect unpaid legal fees. The client cross-complained for **malpractice**, alleging the lawyer failed to timely file for the patent.
- Attorney for subdivision developer signed off on residential subdivision agreements and documents which were intended to exempt the re-sales of certain 'age-restricted' lots from a

conveyance fee otherwise imposed to fund open space and environmental enhancements.
Developer sues lawyer after the sellers of such lots are penalized for the conveyance fees.

Negligence

Product Liability

- A car owner, citing **recall notice** by auto maker, sues when the allegedly faulty radiator failed, destroying the car's engine.

Premises Liability

- Purchaser of lots on which to build a mausoleum sues operator of cemetery for **negligent property maintenance** when thieves break in and steal urn containing purchaser's late son's ashes.

Motor Vehicle

- Dozens of Motor Vehicle/Personal Injury cases involving injuries of almost every description alleged to have resulted from **negligence in auto accidents**, mostly centered on back and neck problems.

General Liability

- Dozens of cases involving personal injuries alleged to have resulted from improper maintenance, repair, supervision, etc. by employers, vendors, premises owners, or other persons who allegedly owed a duty to the injured party.

Other

Insurance Coverage

- National home developer/builder sues subcontractors' liability insurers on their '**additional insureds' policies** to require such insurer not only to pay for the developer's defense, but also to allow the developer to choose its own defense counsel.
- Judicial discovery referee for class action against national insurance company for allegedly **failing to disclose** or document the manner in which it adjusts the value of property on which a claim is filed to reflect the property's condition for depreciation purposes.
- Homeowner sues insurance carrier for **coverage**, after carrier denies coverage for home lost to floods and then fire.
- Several Uninsured Motorist Coverage lawsuits.

Tax Disputes

- Many tax disputes involving issues of Gross Receipts Tax Formula, election of S Corp for tax purposes and refunds of taxes paid under protest.

Probate/Wills Contests

- Plaintiff sues to be able to stay in the home he alleges that his **putative spouse promised** to him.

- An adopted daughter sues her biological mother for breach of the mother's offer to leave her entire estate if the daughter consents to being "re-adopted." The daughter consents, is adopted, but the biological **mother then excludes the daughter from the estate.**
- Suit by estate of original owner to **cancel title** of decedent's daughter-in-law to the family home, for back rent on the home and an order to evict.

Misrepresentation in Offer and Sale of Securities or Franchises

- An insurance company **changes its franchise agreement.** As a result, franchisees sue to avoid the changed terms.

Administrative Law Enforcement

- A State agency sued to assess a business owner for **workers' compensation insurance**, alleging he was a covered "employee."
- The State nursing home regulator sued a skilled nursing home facility operator, alleging the home **committed violations** of its standards when a patient died after having been allowed to fall off of a gurney.
- A disabled patron alleges **ADA non-compliance** by a restaurant.
- A government environmental agency brought suit alleging that a gas station committed **vapor control violations.**
- The city building code enforcement office sues a landlord for **apartment housing code violations.**