

# Daily Journal

JULY 18, 2012

## Top 75

# Labor and Employment Attorneys



The *Daily Journal's* first special issue devoted to Labor & Employment was published three years ago with a cover that read: "Waiting for Brinker." That headline was an acknowledgement that the development of employment law had grown stagnant despite being a practice that consumes vast court time and resources. Even in California, the nation's hotbed for cutting edge (businesses might say edge cutting) employment litigation, the development of the law wasn't progressing.

2012 changed all of that.

In February, California's 1st District Court of Appeal issued a strongly worded opinion in *Duran v. U.S. Bank National Association* that gave crucial guidance on certification of class actions in wage and hour misclassification litigation. Two months later, on April 12, the California Supreme Court issued its long-awaited and seminal ruling in *Brinker v. Superior Court* that provided guidance on the issue of meal and rest breaks. On April 30, the California Supreme Court was at it again. This time, in *Kirby v. Immoos Fire Protection Inc.*, the justices said violations of meal and rest breaks do not provide a basis for statutory attorney fees to the prevailing party.

For the lawyers on the *Daily Journal's* list of top practitioners in California everything has changed and nothing has changed. Employment has been and will remain one of the busiest areas of the law – despite the recent rulings, most experts believe. What's different is the lawyers now have some new tools with which to work their craft.

— The Editors



DAILY JOURNAL FILE PHOTO

### Terry E. Sanchez

Munger, Tolles & Olson LLP

Los Angeles

**Specialty:** employment litigation

that Sanchez said he's ever seen.

Sanchez was the lead labor and employment lawyer representing Warner Bros. in its dispute with Sheen over the actor's firing from the highly rated sitcom "Two and a Half Men." *Sheen v. Lorre*, SC111794 (Los Angeles Super. Ct.).

The Munger Tolles lawyers were successful in enforcing Sheen's arbitration provision in his contract, and the case was settled "to the parties' mutual satisfaction," according to Sanchez, in September.

"It was exciting and fast-paced," Sanchez said. "I was surprised that it generated as much media scrutiny in the general media, as opposed to the entertainment media. It really captured people's interests."

Sanchez was also involved in a dispute alleging so-called "forced patronage."

In the past year, securities firms have faced several of those putative class actions

in which employees claimed that the firms violated the state's labor laws by requiring them to maintain their securities accounts with the companies.

Sanchez co-lead an effort on behalf of Bank of America/Merrill Lynch and Wells Fargo to defeat the claims on federal conflict pre-emption grounds. *Heilemann v. Bank of America Corp.*, 10-cv-08623 (C.D. Cal.); *McDaniel v. Wells Fargo Investments LLC*, 10-cv-04916 (N.D. Cal.).

He argued that federal securities law gives employers the discretion to determine the practices and policies under which their employees can trade securities in order to monitor their activities and prevent insider trading.

"It was a collision of two policies, Sanchez said, adding that the state statute prohibiting forced patronage was in conflict with the federal grant of discretion.

In July 2011, Judge Samuel Conti of the Northern District dismissed the case against Wells Fargo with prejudice. A month earlier, Judge George Wu of the Central District issued a similar dismissal in the Merrill Lynch case.

The matter is pending in the 9th U.S. Circuit Court of Appeals.

— Pat Broderick

**A**ctor Charlie Sheen's \$100 million wrongful termination suit, which generated a media storm last year, was one of the most litigated arbitration agreements