

Daily Journal

JULY 16, 2014

LABOR & EMPLOYMENT

CALIFORNIA'S TOP LABOR AND EMPLOYMENT LAWYERS

EDITORS' NOTE

As the U.S. Supreme Court continued to favor businesses by raising the bar for class actions, California lawyers looked to our state Supreme Court for cues on how it would follow the high court's lead. 2014 gave us some answers.

Three long-awaited rulings in *Iskanian*, *Duran* and *Ayala* are set to illuminate the playing field for employment class action and the enforceability of employment contracts requiring workers to arbitrate their grievances.

In *Iskanian*, the court ruled that an arbitration clause can prohibit a class action, handing defense lawyers a win they desperately wanted. But the decision also gave a significant victory to workers — it said they could sue on behalf of themselves and other workers as representatives of the state.

In *Duran*, the court said statistical sampling could be used in class actions — which many employers sought to avoid — but it set a high bar for the use of such sampling.

Finally, the court held in *Ayala* that in an employee misclassification action, a class should be certified if the employer has the right to

exercise control over its independent contractors, regardless of variations in how the employer exercises that right.

Together the rulings create a challenging body of law for our state's labor and employment lawyers, whose accomplishments continue to boost the California Supreme Court as the most influential in the nation.

In reviewing hundreds of nominations from law firms, alternative dispute resolution providers and others, we sought to recognize work that is having a broad impact on the legal community, the nation and society. We honor the best of them.

TERRY E. SANCHEZ

MUNGER, TOLLES & OLSON LLP

LOS ANGELES

SPECIALTY: litigation

Sanchez led a team in successfully defending Amgen USA Inc. against a whistleblower and wrongful discharge lawsuit.

A former employee contended that he had been wrongfully terminated after allegedly refusing to engage in certain pharmaceutical marketing practices. He subsequently pursued a whistleblower action against Amgen, seeking millions of dollars in damages.

Sanchez was brought in to try the case in the middle of December, following almost five years of active discovery and litigation.

"It required a lot of catching up on what had happened," he said. "This was heavily litigated by both sides."

Because of the breadth of the case, "Plaintiffs intended to introduce a lot of evidence regarding alleged improper industry and company practices," Sanchez said.

He and his team cut the matter down to essential issues, rather than try Amgen on the alleged conduct of the entire industry.

Amgen prevailed on numerous pre-trial motions and settled the case favorably just prior to jury selection on April 9. *Hanks v. Amgen USA Inc.*, 56-2009-00342748 (Ventura Super. Ct., filed April 20, 2009).

In another matter, Sanchez and co-counsel (and fellow honoree) Malcolm Heinicke represented Wells Fargo Bank NA in a putative national collective action and California class action.

The case involved allegations that the company pressured loan underwriters to work off the clock, but failed to compensate them for their time.



Counsel successfully obtained the dismissal of both the collective and class action allegations, and the case ultimately settled on an individual basis in February. *Wolin v. Wells Fargo Bank, et al.*, CV13-1046 (C.D. Cal., filed Feb. 13, 2013).

— PAT BRODERICK