

\$20 million dollars

Congratulations to Firm Attorney Astrid Perez on a recent win in a contentious labor arbitration concerning a governmental entity failing to promote a female deputy to sergeant for over twenty years. In the Arbitrator’s Award and written decision received, the Arbitrator found that the City violated Article 5 and Article 21 of the Collective Bargaining Agreement when it failed to promote the deputy to sergeant. Additionally, the Arbitrator found that the City violated Article 5, and Article 21 when it chose to provide an exception for promotion to sergeant to an otherwise ineligible deputy because it did not want to place a woman in a supervisory role. As such, the City failed to abide by the April 30, 2021, Announcement and Article 21 because it did not promote from the top three candidates. It further failed to abide by Article 5 of the Collective Bargaining Agreement because it failed to provide information necessary for the administration or application of the Agreement. Specifically, it failed to provide the Union adequate documentation that promotions were being made in accordance with the Agreement and free of any discrimination. Congratulations to Astrid for a job well done in winning this very difficult and contentious Arbitration!

We are thrilled to announce that Firm Partner Shannon Wilson has been awarded the Louie Wiener Pro Bono Service Award by the Legal Aid Center of Southern Nevada. Incredibly, this is the 3rd time Shannon has been recognized and singled out for the impact she’s made with her pro bono work. Congratulations, Shannon! ■

Discrimination Case

We’re pleased to announce that our Hutchison & Steffen trial team, led by Firm Partner Jason Guinasso (1st chair) and supported by Firm Attorney Russell Carr (2nd chair) and Trial Paralegal Risa Beck, recently obtained a defense verdict on behalf of their client in a two-week jury trial in where the plaintiff was asking for \$20 million dollars. This was a high stakes case where our client was facing extraordinary liability. A loss would have had a profound impact on the client personally and professionally. The jury took two and a half days to reach a unanimous verdict finding that our client was not liable for the damages sustained by the plaintiffs. To achieve this result, the trial team had to overcome the natural sympathies the jury had for a family grieving the death of a loved one. Even though the burden of proof was on the plaintiff, as a practical matter the defense team carried the burden of winning the hearts and minds of a jury from voir dire to closing argument. Because the team secured a complete defense, the team beat the offer of judgment, which means the client will be entitled to recover attorneys’ fees and costs.



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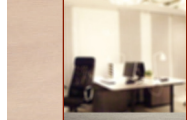
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Legal Matters
SUMMER 2023

COMPANY HIT FOR CUTTING JOB WHILE INJURED WORKER ON LEAVE

If you have workers out on leave for health reasons and you’re simultaneously considering cutting positions for economic reasons, it’s important to review your plans with an employment attorney. Depending on how you carry out the decisions you make, you could be leaving yourself vulnerable to legal claims.

That happened recently in Kansas when a warehouse worker who had been with his employer for nearly 20 years suffered a back injury on the job. He returned to work after a month, but then took leave under the federal Family and Medical Leave Act 20 months later. According to the employee, he wanted to file a worker’s compensation claim, but his employer discouraged him from doing so while promising to hold his job for him for an additional seven months.

A couple months after that, he returned with lifting restrictions, but his employer told him the warehouse team had been restructured and his position no longer existed. The employee proceeded to file a claim in U.S. District Court alleging disability discrimination and failure to accommodate.

The employer vigorously fought the allegations, insisting that it restructured the warehouse out of economic need. However, the company’s own policies called for a 12-month leave under the circumstances involving the employee, and the employee was able to obtain email and other evidence that his employer was irritated by his need for time off. In addition, his position was apparently the only one eliminated in the restructuring.

The facts were damaging enough for a jury to find in the employee’s favor and award a seven-figure verdict that included a substantial amount of punitive damages intended to punish the employer for egregious behavior and deter similar conduct going forward. The court also ordered the employer to pay the worker’s attorneys’ fees and costs. ■

“...you could be leaving yourself vulnerable to legal claims.”



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**The Firm is pleased
to welcome
three attorneys:**



**JONATHAN
S. CHUNG**

Associate, Las Vegas Office



**CHRISTINE
DAVIES**

Associate, Las Vegas Office



**MATTHEW
S. MCLAUGHLIN**

Associate, Las Vegas Office

Actual resolution of legal issues depends upon many factors, including variations of fact and state laws. This newsletter is not intended to provide legal advice on specific subjects, but rather to provide insight into legal developments and issues. The reader should always consult with legal counsel before taking any action on matters covered by this newsletter. Nothing herein should be construed to create or offer the existence of an attorney-client relationship.

Time Limit on Asserting Property Rights

Assert your property rights, or lose them.

***That's the takeaway from
a recent decision from the
California Court of Appeal.***

In the case of Johnson v. Little Rock Ranch, LLC, the appeals court upheld a lower court ruling that ordered a property owner to sell a portion of their land to an encroaching neighbor.

The case illustrates the broad discretion courts have in determining how to resolve encroachment disputes and highlights the importance of maintaining and protecting one's property boundaries.

The California case centered around two adjoining parcels of land, a 677-acre northern parcel and a 210-acre southern parcel owned by the Johnsons.

For more than 50 years, the parcels were more or less separated by a barbed wire fence. However, the fence was entirely on the Johnsons' parcel, with the actual property line approximately 50 feet to the north, accounting for a 3.4-acre discrepancy.

The northern and southern parcels were owned by extended family members. For decades, the Johnsons allowed the northern-parcel family to use land, and the northern family's cattle grazed right up to the fence line. Both families knew the fence was inconsistent with the property line.

In 1997, the Johnsons leased their land to a tenant who planted an almond orchard up to the fence line. The tenant did not use the strip of land beyond the fence, and the Johnsons rarely visited themselves.

In 2012, the northern family sold their land to Little Rock Ranch. Neither the property owner nor their agent informed Little Rock Ranch that the property in question did not extend all the way to the fence. However, the title report did disclose a potential discrepancy, without providing specifics. The agent, reportedly, led the buyer to believe the discrepancy was likely only a foot or two.

Soon after acquiring the land, Little Rock spent more than \$1 million preparing to

plant a walnut orchard, including grading and irrigation. Three or four months passed after the improvements before the Johnsons notified Little Rock of their property ownership. The Johnsons then sued for trespass and sought an injunction, requiring Little Rock to return the land to its prior state.

The court's ruling

First, the court found that unreasonable delay precluded the request for relief. The Johnsons had known the fence line didn't match the property line and had allowed their former neighbors to use the property as their own for decades. Furthermore, they waited until after Little Rock had improved the land to address the issue.

Second, the court applied the doctrine of "relative hardship." The court recognized that restoring the strip to its former state would cause the defendant considerable expense and harm. Meanwhile the plaintiffs rarely used the land, other than for recreational hunting.

In the end, the court ordered the Johnsons to sell the disputed strip of land to Little Rock using the market value of the improved land, as opposed to its previous value. Notably, a dissenting judge disagreed and argued that Little Rock should be held accountable for failing to investigate disclosures in the title report.

Please contact the Firm's real estate attorneys for legal guidance to assert and protect your property rights. ■



PARTNER ANNOUNCEMENTS

The Firm is pleased to make two Partner announcements. Rik L. Wade has been named Partner in the Firm's litigation department. As a member of the Firm's Las Vegas office since 2010, he has served clients in the areas of commercial litigation, premises liability, family law (guardianships), and criminal defense. Congratulations, Rik!



In addition, Stewart C. Fitts has been named Partner after having served as Senior Counsel with the Firm since 2021. He practices in the areas of business and commercial litigation, banking litigation, products/premises liability defense, and appeals. Congratulations, Stewart!

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