quinn emanuel trial lawyers
quinn emanuel urquhart & sullivan, llp

Employment Litigation

We are one of the premier employment litigation defense firms in the United States. We have represented employers in more than 800 employment cases including sexual harassment, race discrimination, employee mobility, trade secret misappropriation, retaliation, and ERISA claims. We represent employers in both class actions and cases brought by individual plaintiffs and regularly analyze restrictive covenants, advise on hiring or raid response strategies, counsel on managing legal risk for sensitive or group hires/departures, develop litigation strategy, conduct competitive analyses, conduct forensic investigations, and negotiate with adversaries on cease and desist demands. Although we are proud of our trial record, our primary goal is to dispose of cases at the outset by dispositive motion. We also recognize that sometimes our clients' best interests are served by settling cases, and our trial record in employment cases enables us to reach favorable settlements for our clients. Our track record of consistently obtaining defense verdicts is well-known among members of the plaintiffs' bar, which we believe substantially reduces the dollar amounts our clients pay in settlement.

Some of the better known clients we have represented in employment matters include IBM, Disney, Avery Dennison, Lockton, AIG, Morgan Stanley, Paramount Pictures, Toyota, Hughes Aircraft, IHOP, Jefferies & Company, Lockheed, Marriott, Mattel, Texaco, Waste Management, Hollywood Video, and Litton.

RECENT REPRESENTATIONS

- We represented the **National Women's Law Center (NWLC)** and 37 additional organizations as amici curie, in support of a teacher who alleges he was fired from his job as a teacher at a religious school in retaliation for his holding a student assembly on race. On appeal, QE argued that: (1) whether the teacher was a "minister" is a fact-intensive inquiry; and (2) an expansive reading of the "ministerial exception" would undermine important anti-discrimination protections for many people who experience significant rates of workplace discrimination. The 10th Circuit dismissed the school's appeal, and noted that whether the teacher was a "minister" presented a factual dispute to be resolved at trial, consistent with our amicus brief.

- We represented **Barrick Gold of North America, Inc., the Board of Directors of Barrick Gold of North America, Inc., and Barrick U.S. Subsidiaries Benefits Committee** in a class action filed by two former Barrick Gold employees in which they alleged that Defendants breached the fiduciary duties of loyalty and prudence in violation of ERISA by purportedly failing to, among other things, investigate and select lower cost alternative investment options for the plan and monitor or control the plan's recordkeeping expenses. In the Summer of 2020, Quinn Emanuel filed a motion to dismiss Plaintiffs' complaint, arguing that Plaintiffs' claim that the plan's investment options were more expensive than allegedly similar investments was inaccurate. Plaintiffs were not only making comparisons between dissimilar investment options, but they were also citing incorrect plan expense ratios that, when corrected, showed that the plan's investment options were actual cheaper than the ones Plaintiffs cited as examples of "prudent" investment choices. The plan documents also proved that the

plan administrator had acted prudently, renegotiating recordkeeping fees 17 times with the recordkeeper and consistently lowering the fees. The Court agreed and dismissed Plaintiffs' Amended Complaint with prejudice.

- In a pro bono case, we represented Ms. Sarat Marcos Zacarias, a garment worker who worked 14-hour days for several years and was paid slightly over 2 dollars an hour, way below the minimum wages. We took her case and tried it before the California Labor Commissioner and obtained a judgment of $392,595.15. As told by our pro bono co-counsel, this judgment is "one of the largest garment victories [she] could remember."

- Quinn Emanuel successfully obtained a preliminary injunction for its client, **Farmer's Business Network, Inc. ("FBN")**, in South Dakota state court after filing the complaint in May 2020 and conducting an in-person, 2-day bench trial only six weeks later (at the height of the COVID pandemic in the United States). The South Dakota court adopted all of Quinn Emanuel's arguments and evidence, and issued a preliminary injunction to enforce a non-compete agreement against Ron Wulfkuhle, thereby prohibiting him from working for his new employer and FBN competitor, Inari Agriculture Inc. ("Inari").

- Quinn Emanuel represented world tennis champion **Naomi Osaka** in a lawsuit filed by her former tennis coach in Broward County Circuit Court, which sought 20% of her tennis earnings after she was crowned reigning champion at the U.S. Open and Australian Open in 2018, and was ranked #1 by the Women's Tennis Association. Ms. Osaka and her family achieved a rare victory in Florida state court: obtaining a complete dismissal of the plaintiff's claims on an initial motion to dismiss. The decision is a landmark in the protection of young athletes.

- We currently represent **Regor Therapeutics**, a biotechnology company founded by two former employees of Pfizer Inc.. being sued in federal court by Pfizer alleging trade secret misappropriation.

- Quinn Emanuel recently represented **Barrick Gold** in an ERISA class action in federal court in Utah and obtained a total dismissal with prejudice. Adopting our arguments almost in their entirety, the Utah district court held that plaintiffs complaint was "filled with generalities, legal standards, generic descriptions of investment options available to consumers, industry-wide statistics and averages" that did not "create a plausible inference that the Committee breached its fiduciary duties."

- We represented **Mercuria Energy Trading, Inc.**, and several affiliates in a breach of contract case and obtained a complete victory before the Second Circuit, which affirmed in its entirety the order of the District Court for the Southern District of New York dismissing all claims against our client. This was a highly contentious dispute where Mercuria's former employee claimed that Mercuria owed him more than $32 million in carried interest payments. We moved to dismiss the claims based on the plain language of the contract. The District Court issued a 32-page opinion agreeing with our position across the board and dismissing the complaint in its entirety, with no

opportunity to replead. In affirming the District Court's order, the Second Circuit fully adopted the reasoning set forth in the District Court's opinion and our briefs.

- Quinn Emanuel recently obtained a broad preliminary injunction in Delaware Chancery Court for its clients, independent insurance brokers **Mountain West Series of Lockton Companies, LLC** and **Lockton Partners, LLC**, against competitor Alliant Insurance Services, Inc., in a case alleging tortious interference with contract and business expectancy, misappropriation of trade secret, confidential, and proprietary information, and aiding and abetting breaches of fiduciary duty. In a sweeping opinion and order, the Court enjoined Alliant and its affiliated entities from directly or indirectly soliciting or servicing its recruits' former clients and prospects, including those who had already switched brokers, and directly or indirectly soliciting any Lockton employee, member, or consultant.

- Quinn Emanuel currently represents a group of 15 investment banking professionals in a confidential FINRA arbitration regarding alleged restrictive covenant and trade secret misappropriation.

- We represented pro bono **a probationary employee at the New York City Office of Chief Medical Examiner** who was terminated from her position because of her obligations as a military reservist. Despite advising her supervisors of her reserve obligations when she was hired, our client experienced hostility and then was terminated just before her probationary period expired because of her reserve obligations. Service members are protected from this sort of discrimination by the Uniformed Services Employment and Reemployment Rights Act of 1994 (USERRA), a statute that operates much like Title VII. The client had been representing herself (quite ably) through summary judgment prior to our involvement. She successfully resisted summary judgment, although in his order denying summary judgment, Judge Broderick wrote "there's sufficient evidence, albeit perhaps barely so" to avoid summary judgment. And there was also evidence that the client's job performance was lacking and that she was often late and insubordinate. On top of this, as a probationary employee, her salary was not high and her claims were for backpay assuming she would become a full time employee. We started our representation advising our client during a court-mandated mediation, but the parties were unable to reach agreement, with the City only offering a nominal amount, and we began to prepare for trial. The court granted our request for leave to take three limited depositions of potential witnesses and, after the depositions, the City's offer rose. We finalized a settlement with the City that was eight times the initial offer.

- We represented **a plaintiff** alleging wrongful termination and retaliation claims against a former employer under federal, state, and local law. We represented the client pro bono through all phases of the action. The case settled following the close of discovery.

- Quinn Emanuel defended **a corporate entity** and its Chairman of the Board in a suit by the corporate entity's former President and Chief Executive Officer for alleged wrongful termination seeking millions in damages. The plaintiff asserted numerous claims, including fraudulent misrepresentation, negligent misrepresentation, breach of

fiduciary duty, breach of contract, promissory estoppel, and wrongful discharge in violation of public policy. We were retained four days before our motion to dismiss was due. We quickly prepared the motion to dismiss, which the Court granted in part. Importantly, the Court's order stated in no uncertain terms that the remainder of the case probably would not survive a motion for summary judgement. In the end, the case was settled within 40 days of our retention.

- We represented technology startup **C3 IoT** in a case involving a former salesperson who claimed the company wrongfully terminated him and owed him hundreds of thousands of dollars in commissions. After four years of litigation, a jury rejected all of the plaintiff's claims, resulting in a complete defense victory.

- We represented the **University of Southern California ("USC")** against its former head football coach, Steve Sarkisian, in a suit filed by Sarkisian after he was terminated in October 2015. Sarkisian's firing came after a series of public incidents involving Sarkisian's apparent use of alcohol and resulting media speculation. After being terminated and completing inpatient rehabilitation treating, Sarkisian—claiming he was improperly terminated due to his alcoholism—brought claims against USC for wrongful termination, disability discrimination, failure to engage in the interactive process, failure to accommodate, breach of contract, breach of the implied covenant of good faith and fair dealing, invasion of privacy, and negligence. Sarkisian sought over $30 million from USC. After a seven-day arbitration, the arbitrator denied each of Sarkisian's claims, resulting in a complete victory for USC.

- We represented **Mercuria Energy Trading, Inc.,** and several affiliates in a breach of contract case and obtained a complete victory before Judge Rakoff in the Southern District of New York, dismissing all claims against our client. This was a highly contentious dispute where Mercuria's former employee claimed that Mercuria owed him more than $32 million in carried interest payments. We moved to dismiss the claims based on the plain language of the contract. Judge Rakoff issued a 32-page opinion agreeing with our position across the board and dismissing the complaint in its entirety, with no opportunity to replead.

- We represented biopharmaceutical company **Theravance Biopharma US, Inc.** and certain of its affiliates against its former Senior Vice President of Technical Operations, Junning Lee. Prior to his resignation in February 2017, Lee downloaded hundreds of thousands of confidential, proprietary, and trade secret documents from Theravance's servers, then attempted to cover his tracks when Theravance discovered the downloading. We asserted claims for trade secret misappropriation under state and federal law, as well as claims for breach of contract and breach of Lee's fiduciary duty and duty of loyalty. The court (Judge Vince Chhabria in the Northern District of California) granted our motion for preliminary injunction with only minor modification, ordering Lee to return dozens of devices, to provide access to his email accounts, and to identify any third parties who might have received Theravance data. Theravance was not required to post a bond.

- We represented **Roger Ailes**, the founder and CEO of Fox News, and his estate in matters related to his 2016 departure from Fox News other employment-related litigation and arbitration matters.

- We represented a group of portfolio managers departing Deutsche Bank for **HPM Partners** against claims of breach of contract and breach of fiduciary duty and obtained a favorable result in a FINRA arbitration.

- We represented **Freedom For All Americans** and more than 200 corporations in submitting a 2019 *amicus* brief to the Second Circuit Court of Appeals (rehearing a case *en banc*) that argued that Title VII's prohibitions on discrimination against of employees "because of … sex" includes a prohibition on discrimination based on sexual orientation. The brief also argued that LGBTQ non-discrimination and inclusion are good for business and the economy. The companies signing onto the brief include the interests of greater than 7 million employees, a wide variety of industries, and more than $5 trillion in revenue.

- We represented **Lamonte Purifoy**, pro bono, before the Federal Circuit in appealing a final order by the Merit Systems Protection Board affirming the Agency's decision to remove Mr. Purifoy from his position over two charges of extended unauthorized absence. The Federal Circuit issued a unanimous, precedential opinion vacating and remanding a decision of the Merit Systems Protection Board and strengthening the deference owed by the Board to Administrative Judge's credibility determinations.

- We defended **BlueCrest Capital** in a case brought by a former employee seeking $1.3 million in bonus and severance payments, as well as damages under New York's Labor Law and attorneys' fees. The court granted our first motion to dismiss in full and without leave to re-file.

- We represented **Art.com** in a case brought by Gotham City Online LLC alleging various claims, including trade secret misappropriation. We defeated plaintiff's request for a temporary restraining order, successfully disqualified opposing counsel for using Art.com's privileged documents to prepare Gotham's case, and effectively shut down the dispute, which was subsequently dismissed.

- We represented a plaintiff in a pro bono employment case involving race discrimination, sexual harassment and retaliation and obtained a favorable settlement for the client.

- We won a confidential employment arbitration for an **international pharmaceutical company** against its departing senior U.S. executive.

- We represented **eleven individual respondents** in connection with claims by their former employer, a major financial institution, arising out of their resignation to join a smaller registered investment advisor. The former employer asserted claims for breach of contract, breach of fiduciary duties, and misappropriation of trade secrets, among other causes of action. After 17 hearing days, during which the former employer called

each of the individual respondents to testify, a three-arbitrator FINRA panel dismissed all of the former employer's claims and ordered it to pay all hearing fees.

- We represented **Kimberlite Corporation** and its **Chief Executive Officer** in a suit by Kimberlite's former President and Chief Operating Officer arising out of a transaction whereby Kimberlite was sold to its employees through an Employee Stock Ownership Program ("ESOP"). The plaintiff asserted numerous claims, including breach of employment contract, breach of partnership agreement, breach of fiduciary duty, fraud, wrongful termination, and breach of certain contractual obligations arising out of the ESOP transaction. Quinn Emanuel was substituted as counsel several months after the action commenced. We immediately asserted cross-claims against the plaintiff for breach of fiduciary duty and misappropriation of corporate assets, and proceeded to quickly obtain several tactical victories in connection with discovery disputes. After obtaining key admissions from plaintiff in discovery, we successfully moved for summary judgment on plaintiff's breach of fiduciary duty and partnership-related claims, significantly narrowing the scope of the case. The remaining claims were tried to a jury in Fresno, California in the spring of 2009. After winning most of the 23 motions in limine we filed on behalf of our clients, a team of Quinn Emanuel attorneys tried the case over the course of six weeks. We elicited devastating testimony from numerous witnesses on both direct and cross examination throughout the trial. At the beginning of the seventh week of trial, the plaintiff proposed to settle the case and our clients accepted. Both our corporate and individual clients were thrilled with the confidential settlement.

- After trial, we obtained complete defense verdicts on all claims asserted by a former personal assistant to **Dr. Henry T. Nicholas, III**. The former assistant sued Dr. Nicholas and his family office for alleged wrongful termination and unpaid overtime wages. A jury rejected the assistant's contention that she was terminated in retaliation for honoring a subpoena to testify before a federal grand jury. At the ensuing bench trial on the overtime claim, the court credited the defense that the assistant was an exempt employee and awarded her zero damages. After the Court of Appeal reversed the jury trial verdict on the wrongful termination claim on the grounds that the trial court had excluded certain evidence, we tried that claim again and won the trial again.

- We successfully defended **Barnes & Noble Booksellers, Inc.** in a wage and overtime class action alleging various violations of the Labor Code, including failure to provide meal breaks and rest breaks and failure to pay overtime. The Court denied certification in its entirety, ruling that plaintiff failed to satisfy his burden to demonstrate common issues predominated over individual issues, and that a class action was a superior method of adjudicating plaintiff's claims.

- We represented a **printing company** in a case it brought against a former employee and his new employer alleging misappropriation of trade secrets, breaches of fiduciary duty and interference with economic advantage. We were substituted in as counsel several months before trial. After a month-long trial straddling the holidays, we won a jury verdict for $5.7 million in compensatory damages and $8 million in punitive damages.

- We represented **Disney** in a trial that received prominent newspaper coverage, arising out of the plaintiff's contention that, over a period of several years, plaintiff's supervisor made offensive sexual remarks and gestures. Five witnesses supported plaintiff's contention. The defense strategy was to show that plaintiff and her supervisor had for years enjoyed a friendly relationship that included mild sexual banter. After a six-week trial, the jury returned a unanimous verdict for the defense.

- We represented **Buena Vista Home Video**, in a case involving the less common situation of a female supervisor being accused of sexually harassing a male subordinate. The plaintiff, who alleged damages in excess of $2.25 million, claimed he had been subjected to six months of sexual overtures and sexually explicit banter. The plaintiff claimed the behavior was offensive to him because he was homosexual. The woman denied that she knew he was gay and claimed that her "overtures" were modest, such as invitations to after-work social activities. We obtained a defense verdict.

- We represented **Jefferies & Company** in a case brought by a former highly-paid Senior Vice President and salesperson who alleged that her termination was discriminatory. The plaintiff had the highest commissions of any of the defendant's sales people during the final year of her employment. After a two-month trial, the jury returned a defense verdict. The result was nominated "Verdict of the Month" by *The National Law Journal*.

- We represented **Packard-Hughes Interconnect** in a case brought by an employee who alleged that her career began a downward spiral after she testified in a sexual harassment case brought against her supervisor by another employee. According to the plaintiff, who had been with the company for 29 years, over the next two years her duties were reduced to almost nothing. Finally, six months after plaintiff turned 50, her supervisor cut her pay by ten percent and told her that the next step would be out the door. Plaintiff filed a suit for age discrimination, age harassment, and retaliation. After a five week jury trial, the jury deliberated just four hours before returning a defense verdict on all claims.

- We represented **Space Systems/Loral** in a case brought by a 49-year old Chinese-American engineer, who was the supervisor of automated circuit-card assembly. Our client claimed that the plaintiff was terminated for failing to properly direct his assemblers to follow work orders and production guidelines, resulting in damage to components on the circuit cards. The plaintiff claimed he was scapegoated for the damaged circuit cards. After a two-week trial, the jury returned a verdict for defendant in only 20 minutes.

- We represented an **AIG** subsidiary when two of its senior investment fund managers sought to work for a competitor and solicited AIG's clients. The firm obtained a preliminary injunction on behalf of AIG from a New York federal court.

- We represented a **premier financial services company** in a trade secrets case involving a financial consultant who resigned from the company and went to work for a competitor. Even though the financial consultant's contract contained a non-solicitation

provision, on the same day as his resignation, he sent solicitation packages to hundreds of his former employer's customers. The packages included pre-printed account transfer forms that contained proprietary customer data that could only have been obtained from the financial services company's files.

- We represented **Avery Dennison** when it hired a salesperson from 3M, who, unbeknownst to Avery, secretly took proprietary 3M documents with him when he left 3M. Alleging trade secret misappropriation, 3M sued both Avery and the employee. Although the documents came to light when 3M obtained an *ex parte* seizure order and the marshal raided the employee's house, we persuaded the jury that Avery had no knowledge of the employee's activities, and after a 3-month jury trial obtained a complete defense verdict.