

## SUMMARY OF EXPERIENCE

### ARBITRATION AND MEDIATION

2006-Present: Barbara L. Rosenfeld Mediation

- Commercial and residential landlord - tenant
- Lemon law
- Personal injury
- Negligence
- Breach of contract
- Fraud
- Antipiracy
- Refund of municipal utility user tax
- Medical malpractice
- Conversion
- California taxation of a non-resident
- Specific performance
- Breach of warranty
- California unitary taxation
- Mandatory legal fee dispute arbitration

### CONSENSUS BUILDING AND NEGOTIATION

- **1994-2005: Motion Picture Association of America/Motion Picture Association (MPAA/MPA)**

Chaired the Tax/Production Committees: Developed and facilitated consensus amongst the major studios on issues affecting the taxation of production and distribution of filmed entertainment. Negotiated favorable tax treatment with the relevant Government tax/treasury authorities in Canada, Mexico, US, UK, Ireland, Australia, New Zealand, South Africa, and Fiji, and roughly 20 states within the U.S.

Counsel to the Classification and Rating Administration (CARA): Chaired rating appeals.

Counsel to the Title Registration Bureau (TRB): Served as counsel to the arbitrators in disputes involving claims of "conflict" and "unauthorized use" of a registered theatrical film title.

### ADMINISTRATIVE TAX CONTROVERSIES AND LITIGATION

- **1988-1993 BankAmerica Corporation v. IRS**

Type of Tax: Federal Income

IRS Appeals Office (San Francisco), Appeals Officer: James Rowan and Roy Doolan

Facts: Briefed and argued numerous issues arising out of proposed adjustments of hundreds of millions of dollars attributable to bad debt charge-offs, non-accrual of interest, interest applied-to-principal, amortization of intangibles, changes in method of accounting, substantiation and creditability of foreign taxes.

Result: Reached favorable settlements saving tens of millions of dollars in the 1975-76, 1977-78, 1979-81 and 1982-83 appeals cycles.

- **1988-1993 BankAmerica Corporation v. IRS**

Type of Tax: Federal Income

IRS District Director (San Francisco), Case Manager Al Gonsalves

Facts: Responded to numerous Information Document Requests during the course of the 1982-83 and 1984-86 audits regarding the treatment of loan fees and auto loan rebates, depreciation of Other Real Estate Owned, changes in method of accounting, substantiation of foreign tax credits, creditability of foreign

taxes, inter-company income and expenses, tax exempt income on government bonds, and the statute of limitations.

Result: Effectively streamlined the audit, evaluated potential exposures and determined which issues to concede and which to protest, compiled documentation, prepared legal analyses and determined disclosure requirements.

- **1991 BankAmerica Corporation Req. for Tech. Advice**

Type of Tax: Federal Income

IRS National Office, Bob Katcher (Branch Chief) and Carl Cooper (Attorney Advisor)

Facts: The IRS took the position that interest income attributable to the borrower's assumption of the lender's withholding tax liability is not accruable until paid or payable, and that the corresponding foreign tax credits cannot be accrued until that time

Result: The IRS withdrew the proposed adjustment resulting in a savings in excess of \$10,000,000.

- **1989 Bank of America NT&SA v. City and County of S. F.**

Type of Tax: Property

California Supreme Court (consolidated with the Crocker National Bank case; 49 Cal.3d 881)

Facts: \$6,800,000 was assessed and collected on computer equipment classified as fixtures, taxable as real property. The case was tried in the S.F. Superior Court (Judge Dandurand) and appealed to the Court of Appeals (Division Five). The trial and appellate court ruled in favor of defendant.

Result: The Supreme Court reversed and remanded the case. Plaintiff taxpayer obtained \$6,800,000 from S.F., and an additional \$3,000,000 from L.A.

- **1988 Bank of America NT&SA v. County of Los Angeles**

Type of Tax: Property

Los Angeles County Superior Court, Judge Foster

Facts: \$2,500,000 was assessed and collected on computer equipment classified as fixtures, taxable as real property. Plaintiff asserted that the data center computers were tax-exempt personal property.

Result: Plaintiff taxpayer obtained a judgment ordering a \$2,500,000 refund.

- **1987 In Re Bank of America NT&SA**

Type of Tax: Property

San Diego County Assessment Appeals Board

Facts: The Bank of America building was reappraised following a sale and leaseback on the grounds that a change in ownership had occurred.

Result: The Board held that no change in ownership occurred, resulting in a \$5,000,000 annual tax savings.

- **1985 Bank of America NT&SA v. County of Los Angeles**

Type of Tax: Property

Los Angeles County Superior Court, Judge Earl F. Riley

Facts: \$230,000 was assessed and collected on computer equipment classified as fixtures, taxable as real property. Plaintiff asserted that the data center and bankcard computers were tax-exempt personal property.

Result: Plaintiff obtained a Judgment ordering a refund of \$230,000.

- **1983 BALCO v. New Jersey Dept. of Revenue**

Type of Tax: Business Personal Property

Tax Court of New Jersey

Facts: An exemption was enacted for specific business personal property. A claim for refund was required to be filed. Timeliness of that claim was at issue.

Result: The defendant conceded the case on the eve of trial and refunded \$413,000 in taxes paid.

## **CIVIL LITIGATION AND ARBITRATION**

- **1981 Farmer v. Franciscan Fathers**

Party Represented: Defendant

Arbitration, Kensington - Mr. McGraw, Esq.

Facts: Slip and fall at St. Elizabeth school.

Result: Award for defendant.

- **1981 Juniphant v. Aetna Insurance Company**

Party Represented: Respondent

Uninsured Motorists Arbitration, Berkeley - Mr. Edwin Wilson, Esq.

Facts: Petitioner ran into an uninsured vehicle stopped on the freeway at night.

Result: Admitted liability, compromise award.

- **1981 Weeks v. Kenneth of London**

Party Represented: Defendant

Arbitration, Walnut Creek - Mr. Richard Valerian, Esq.

Facts: Tort action for cosmetology malpractice.

Result: Admitted liability, compromise award (amount of the settlement offer).

- **1981 Johnson v. Capwells**

Party Represented: Defendant

Walnut Creek Municipal Court - Judge Longacre, Jr.

Facts: Breach of contract claim on the sale of a diamond.

Result: Judgment for defendant.

- **1980 Countee v. City of San Leandro**

Party Represented: Defendant

San Leandro Municipal Court - Judge Edgar

Facts: Public entity negligence, unlawful detention of a prisoner, claim for return of \$5,000, plus damages.

Result: Admitted liability, damages of \$104.64; judgment in that amount.

- **1980 Sumbler v. County of Alameda**

Party Represented: Defendant

Oakland Municipal Court - Judge Duncan

Facts: Unlawful detention of a prisoner and public entity negligence.

Result: Admitted liability, compromise judgment (below the settlement offer).

- **1980 Hagerman v. Edwards**

Party Represented: Plaintiff

Arbitration, Oakland - Mr. Joseph Campbell, Esq.

Facts: Rear-end auto collision.

Result: Award for plaintiff.

- **1980 Washington v. Kilpatrick's Bakery**

Party Represented: Defendant

Arbitration, Oakland - Judge Sparrow (retired from the Alameda County Superior Court)

Facts: Rear-end auto collision.

Result: Award for defendant.

- **1979 Peach v. Universal Cafe**

Party Represented: Defendant

Arbitration, San Francisco - Mr. Molinelli, Esq.

Facts: Tort action for failure to protect patrons on the premises.

Result: Award for defendant.

- **1978 Johnson v. Hyden**

Party Represented: Defendant

Alameda County Superior Court - Judge Sutton (three-week jury trial)

Facts: Nuisance and tort actions for soil subsidence and water seepage.

Result: Verdict for plaintiff reduced by 25% for comparative negligence.

- **1978 Pupello v. Gaspard**

Party Represented: Defendant

San Leandro Municipal Court - Judge Foley

Facts: Tort action for cosmetology malpractice.

Result: Judgment for defendant.

- **1977 Ramos v. Mimie's Coiffures**

Party Represented: Defendant

San Francisco Municipal Court - Judge Ollie Marie-Victoire (3-day jury trial)

Facts: Tort action for cosmetology malpractice.

Result: Unanimous verdict of 12 for defendant.

## **CRIMINAL LITIGATION**

- **1976 People v. John Doe**

Party Represented: Prosecutor

U.S. Magistrate's Court, Oakland - Magistrate Rothwell

Facts: Minor traffic offenses and driving under the influence of alcohol on Federal property.

Result: Conviction on all counts.