

EXHIBIT D

JOSHUA KONECKY

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EDUCATION & FELLOWSHIPS**New York University School of Law, New York, NY, J.D., May 1995**

Arthur Garfield Hays Fellow
Constitutional Law Teaching Assistant

Haverford College, Haverford, PA, B.A., May 1990

Magna Cum Laude
Highest Honors in Major (Chemistry); Phi Beta Kappa Society; Phi Upsilon Society (National Chemistry Society)

Fulbright Scholar, Buenos Aires, Argentina, Spring & Summer 2002

Lecturing and Research Scholar. Presented lectures and seminars to lawyers, judges, scholars, students, government officials and community members regarding disability access and civil rights laws in the United States. Conducted interviews and research concerning laws, policies and experiences of people with disabilities in Argentina.

Straus Institute for Dispute Resolution, Pepperdine University School of Law, August 2011

Completion of 42 hours of training in Mediating the Litigated Case.

LAW PARTNER**Schneider Wallace Cottrell Konecky LLP, San Francisco, CA****5/04-Present**

Partner. Manage class action litigation in federal and state court, including cases in wage and hour, disability access, employment discrimination, and other civil litigation; Daily Journal's top 75 employment attorneys in California (2013); "Super Lawyer" for Northern California (2011-2022); Finalist – Consumer Attorney of the Year, Consumer Attorneys of California (2010).

Settlement Conference Officer. Superior Court of California, County of San Francisco (October 2012-Present)

Board Memberships: Legal Aid at Work; Disability Rights Advocates Advisory Board

Representative Cases

Julian, et al., v. Swift Transportation Co. Inc. (Case No. CV-16-00576 PHX-ROS;) (D. Ariz.) (summary judgment granted on liability, 36 F.Supp. 3d 932, and summary judgment subsequently awarded on damages in collective action for unpaid minimum wage on behalf of trainees of a major trucking company; collective action settlement later reached for \$14,000,000).

Helmick, et al., v. Air Methods Corporation (Case No. RG13665373) (Superior Court of California) (Phase 2 court trial resulting in over \$60,000,000 in class-wide damages awarded to nurses and paramedics presenting claims for denial of daily overtime and meal and rest periods during 24-hr and 48-hr shifts; case eventually reached a settlement valued at over \$86.5 million for 494 class members, plus injunctive relief).

Hose, et al., v Washington Inventory Service, Inc., et al. (Case No. 14-cv-2869 WQH) (S.D. Cal.) (collective action settlement of \$7,015,516, for unpaid minimum wage, negotiated with alleged successor-in-interest company and bankruptcy estate of original employing entity, after named plaintiff and counsel petitioned U.S. Bankruptcy Trustee to establish a Committee of Unsecured Creditors, and after filing nearly 14,000 individual arbitrations based on the original employer's mandatory arbitration program).

Judd, et al., v KeyPoint Government Solutions, Inc. (Case No.: 18-cv-00327-RM-STV) (D. Col.) (collective action settlement under Fair Labor Standards Act of \$1,500,000 for unpaid overtime for approximately 330 background check investigators, approximately 300 of which were compelled to individual arbitration based on the defendant's mandatory arbitration agreement).

Shaw, et al., v. AMN Services, LLC & Kaiser Foundation Hospitals (Case No. 3:16-cv-02816 JCS) (N.D. Cal.) (class certification granted on contested motion brought on behalf of traveling nurses asserting claims for denial of overtime, meal periods, and rest breaks; class settlement later achieved for \$20,000,000).

Bartoni, et al., v. American Medical Response (Case No. RG08382130) (Superior Court of California) (final approval of class action settlement for \$17,000,000 on behalf of paramedics and dispatches asserting claims for denial of meal and rest periods during 12-hour shifts; settlement achieved after court granted contested motion for class certification).

Ortiz, et al., v. Valley Relocation and Storage, et al. (Case No. CGC-14-542925) (Superior Court of California, County of San Francisco) (class action trial on behalf of workers asserting that employer denied them employment rights and benefits by misclassifying them as "independent contractors" rather than "employees," culminating in final statement of decision after trial on employee status in favor of the plaintiff class).

Villalpando v. Exel Direct, Inc. (Case No. 3:12-cv-04137 JCS, 2015 WL 5179486) (N.D. Cal.) (final approval of class action settlement for \$13,500,000 on behalf of 386 individuals alleging denial of employment rights and benefits after court granted summary judgment in favor of the certified plaintiff class on the issue of whether they were misclassified as "independent contractors" instead of "employees").

Mitchel v. Acosta Sales & Marketing (Case No. 2:11-CV-01796 GAF (OPx) (C.D.Cal.) (final approval of collective and class action settlement of \$9,900,000 to resolve off-the-clock overtime claims on behalf of approximately 4,500 part time and 1,500 full time merchandisers under FLSA and California law).

Perez v. rue21, Inc. (Case No. CISCV167815) (Santa Cruz Superior Court) (final approval of class action settlement of \$2.75 million for missed meal and rest periods to retail store level employees working primarily on a part-time basis in approximately 30 stores in California).

Ortiz v. Home Depot USA, Inc. (Case No. 5:09-cv-03485-LHK) (N.D. Cal.) (final approval of innovative class action settlement achieved before significant litigation that created new procedures for providing sign language interpreters, accessible technology and effective interactive process to deaf workers).

Sosa v. Dreyer's Grand Ice Cream, Inc. (Case No. RG08424366) (Alameda County Superior Court) (final approval of class action settlement of \$13.5 million for unpaid donning and doffing time and noncompliant meal periods, resulting in average settlement awards of \$8,500 each for the nonexempt workers at Dreyer's facility in Bakersfield, California).

Bond-Hatch v. Quest Diagnostics, Inc. (Case No. CGC-06-450274) (San Francisco County Superior Court) (\$9,000,000 class settlement for off-the-clock work & missed breaks for approximately 4,000 phlebotomists).

Hollands v. Lincare (Case No. CGC07-465052) (San Francisco County Superior Court) (final approval granted for \$3.4 million class settlement providing average individual awards of over \$10,000 for approximately 200 class members based on alleged misclassification for overtime).

Piper, et al. v. RGIS (Case Nos. C-06-05778 and C-07-00032) (N.D. Cal.) (final approval of class settlement requiring injunctive relief and \$27 Million settlement fund to remedy off-the-clock and meal period violations on behalf of FLSA opt-in and Rule 23 opt out class covering approximately 62,000 class members).

National Federation of the Blind v. Target (Case No. C-06-01802 MHP) (N.D. Cal) (final approval of class action settlement to make target.com website accessible to legally blind consumers in the United States and establishing a damages fund of \$6 million).

Carlson v. eHarmony (Case No. BC 371958) (Los Angeles County Superior Court) (final approval of a class action settlement for Internet dating site to change policies and ensure equal access to gays and lesbians as well as establishing a damages fund of \$2 million to pay full statutory damages to class members under the Unruh Civil Rights Act).

Turner et al., v. Association of American Medical Colleges (AAMC) (Case No. RG-166148) (San Francisco Superior Court) (class action bench trial on behalf of individuals with learning disabilities seeking reasonable accommodations on the MCAT for medical school admissions, culminating in trial court's statement of decision in favor of the plaintiff class, but reversed on appeal based on holding that underlying statute did not provide right of action).

Chau v. CVS RX Services, Inc. (Case No. BC349224) (Los Angeles County Superior Court) (final approval of \$19.75 million class action settlement for failure to pay overtime to nearly 2,000 pharmacists).

Satchell v. FedEx Express, Inc. (Case No. 03-02659 SI) (N.D. Cal.) (final approval of \$55.5 million class action settlement addressing race discrimination within FedEx and covering nearly 24,000 class members).

Herring v. Hewitt Associates, LLC (Case No. 06-cv-00267) (D.N.J.) (final approval of \$4.9 million settlement for misclassification of approximately 1,000 benefits analysts).

Bates v. United Parcel Service, Inc. (2004 WL 2370633) (N.D. Cal.) (final approval of national class action settlement providing accommodations and equal opportunities to deaf employees of UPS).

Jimenez v. Perot Systems Corp. (Case No. RG07335321) (Alameda County Superior Court) (final approval of \$5.8 million class action settlement for miscalculation of overtime on behalf of nearly 2,000 hospital technology workers).

Gomez v. Perot Systems Corp. (Case No. CV0803337) (Alameda County Superior Court) (final approval of \$3 million class action settlement for failure to pay on-call time to approximately 1,300 hospital technical workers).

Reed v. CALSTAR (Case No. RG04155105) (Alameda County Superior Court) (final approval of \$3.5 million class action settlement on behalf of a class of 113 flight nurses for improper on-duty meal periods and failure to pay overtime).

Campos v. San Francisco State University, C-97-02326 MCC (N.D. Cal) (final approval of class action settlement remedying disability access violations).

Rogers v. AccentCare, Inc. (Case No. RG05237683) (Alameda County Superior Court) (final approval of class action settlement for unpaid travel time on behalf of home caregivers).

McMaster v. BCI Coca-Cola Bottling Co. (Case No. RG04173735) (Alameda County Superior Court) (final approval of \$3.9 million class action settlement for unpaid drive time for nearly 900 Coca-Cola account managers).

Portugal v. Macy's West, Inc. (Case No. BC 324247) (Los Angeles County Superior Court) (final approval of class action settlement of \$3.25 million challenging misclassification of 154 security managers).

Taormina v. Siebel Systems, Inc. (Case No. RG05219031) (Alameda County Superior Court) (final approval of \$2.7 million class action settlement for misclassification of Siebel's 92 inside sales employees).

Joseph v. The Limited, Inc. (Case No. CGC 04-437118) (San Francisco County Superior Court) (final approval of \$450,000 class action settlement for failure to provide meal and rest periods to class of 180 employees of The Limited stores).

Rios v. Siemens Corp. (Case No. C05-04697 PJH) (N.D. Cal.) (final approval of \$375,000 class action settlement for failure to pay accrued vacation pay upon end of employment).

DeSoto v. Sears, Roebuck & Co. (Case No. RG0309669) (Alameda County Superior Court) and *Lenahan v. Sears, Roebuck & Co.* (Case No. 3-02-CV-000045 (SRC) (TJB)) (final approval of \$15 million class action settlement for failure to pay more than 16,000 Sears drivers for all hours worked).

McClain et al., v. Lufkin Industries, Inc. (Civil Action No. 9:97-CV-063) (E.D. Texas) (Title VII class action challenging discrimination in promotions and compensation on behalf of African American and Latino employees, culminating in judgment in favor of the employees, later affirmed in part, reversed in part, and remanded for further proceedings. *See McClain v. Lufkin Industries*, 519 F.3d 264 (5th Cir. 2008)).

PUBLICATIONS

Piller, N., Konecky, J., Joyner, L. "Power in Numbers." Forum, Employment Law Consumer Attorneys of California (2020).

Konecky, J. & Joyner, L. "How to resolve small damages claims: Arbitration and the new normal." Forum, Civil Rights Consumer Attorneys of California (2018).

Contributing Editor, Unruh Civil Rights Act Chapter of the California Practice Guide, Civil Procedure Before Trial, "Claims and Defenses," (2012).

Konecky, J. "Facts and Myths About Learning Disabilities and Standardized Testing: Private Enforcement of the Legal Right to Reasonable Testing Accommodations." The Verdict (Summer 2004).

Wolinsky, S., Konecky, J. & Aubrejuan, A. "The Legal Rights of Students with Learning Disabilities in the United States." In Vogel, Susan A. (Ed.), Learning Disabilities in Higher Education and Beyond, York Press (2003).

Konecky, J. & Wolinsky, S. "Through the Maze: Legal Issues and Disability Rights." Learning Disabilities: A Multi-Disciplinary Journal, Vol. 10, No. 2 (2000).

LECTURES & SEMINARS

- Beard Class Action Conference, Mass Arbitrations, New York, NY** 9/20
Panel speaker addressing procedure, practice and ethical issues as attorneys begin to litigate mass arbitrations instead of class and representative actions in court given the prevalence of arbitration agreements with pre-dispute class action waivers (MCLE event).
- Practising Law Institute, California Employment Law Update, San Francisco, CA** 9/14
Panel speaker on case law development and procedural considerations for claims brought under the California Private Attorneys General Act of 2004 in federal and state court (MCLE event).
- Mediation and Settlement of Wage-and-Hour Disputes, San Francisco, CA** 10/13
Moderator of panel discussing approaches and considerations for ensuring fair and reasonable class action settlements (MCLE event).
- ACI 18th National Forum on Wage & Hour Claims and Class Actions, New York, NY** 5/13
Panel speaker addressing case law developments and practice points pertaining to class and collective actions in the wage and hour context (MCLE event).
- Class Action Litigation and Management, Los Angeles, CA** 4/13
Panel speaker on “Changing Classes: Statistical Differences and Damages after Dukes” (MCLE event).
- Association of Business Trial Lawyers, Fresno, CA** 3/13
Panel speaker with state appellate court justice, federal magistrate judge and practitioners providing update on class action law (MCLE event).
- Federal Practice Primer & Insights from the Bench, San Francisco, CA** 10/12
Chair of panel comprised of federal court practitioners and federal magistrate judge addressing practice and procedure in federal court; sponsored by San Francisco Trial Lawyers Association (MCLE event).
- Wage & Hour 101, Costa Mesa, CA** 10/12
Panel presentation on key aspects of State and federal wage and hour law; 25th Annual Employment Law Conference of the California Employment Lawyers Association (MCLE event).
- In House Counsel Webinar Series, Miller Law Group, San Francisco, CA** 06/12
“*Dukes v. Wal-Mart: One Year Later.*” Webinar for in-house counsel on the status and changing landscape of class action litigation in both federal and state courts.
- Stanford University Law School, Palo Alto, CA** 03/08
Guest lecturer on mediation strategies for Alternative Dispute Resolution law school class.
- Bridgeport Continuing Education, San Francisco, CA** 07/07
“Wage and Hour Class Actions.” Presentation on case developments applicable to wage and hour class and collective actions in state and federal court (MCLE event).
- San Francisco Trial Lawyers Speaker Series, San Francisco, CA** 11/06
“How to Spot a Wage and Hour Class Action.” Presentation on recent trends in wage and hour class actions and how to identify potential class actions from within one’s current case load. (MCLE event).

- Annual Employment Law Conference (CELA), Long Beach, CA** 9/06
Moderator for panel addressing various legal and evidentiary issues in the representation of employees during minimum wage and overtime disputes (MCLE event).
- Developments in Wage and Hour Law (CELA), San Francisco, CA** 7/06
Moderated and presented on panels to employment attorneys on developing areas in wage and hour law, sponsored by the California Employment Lawyers Association (MCLE event).
- Latest Developments in Wage and Hour Law (CELA), San Francisco, CA** 7/05
Presentation to employment attorneys on developing areas in wage and hour law and cases pending before the Supreme Court, sponsored by the California Employment Lawyers Association (MCLE event).
- How to Spot a Wage and Hour Case – California Regional TLA Conference, Santa Barbara, Cal.** 7/05
Presentation to California trial lawyers on wage and hour litigation in California (MCLE event).
- Critical Issues in Employment Litigation – Advanced Course of Study (CEB), SF, Cal.** 5/05
Presentation to plaintiff and defense employment attorneys on developments in wage and hour law, including class actions, Proposition 64, meal and rest breaks, commissions, bonus plans and exemptions (MCLE event).
- Is Your Website Accessible? Legal Ethical and Technical Considerations in Creating Greater Access for People with Disabilities (BASF), San Francisco, California.** 5/04
Seminar presented to attorneys and website designers regarding the legal requirements and disputes with respect to the accessibility of websites to people with disabilities, sponsored by the Disability Rights Committee of The Bar Association of San Francisco (MCLE event).
- Critical Issues in Employment Litigation – Advanced Course of Study (CEB), SF, Cal.** 5/04
Presentation to plaintiff and defense employment attorneys on current trends in minimum wage and overtime class actions, sponsored by the Continuing Education of the Bar (MCLE event).
- Seminar in Public Administration and the Law, San Francisco State University, California** 3/04
Taught class to graduate students in School of Public Administration addressing separation of powers and federalism, including a discussion of the same-sex marriage debate and recent Supreme Court cases concerning enforcement of the Americans with Disabilities Act against State governments.

OTHER LEGAL EXPERIENCE

- Legal Aid Society of San Francisco, San Francisco, CA** 9/98-1/11
Volunteer Supervising Attorney. Provide direction and supervision in employment and labor law to law students who serve as counselors to workers seeking legal advice and assistance on minimum wage and overtime, discrimination, disability and union issues.
- Saperstein, Goldstein, Demchak & Baller, Oakland, CA** 8/02-5/04
Associate. Participated in all aspects of class action litigation on behalf of plaintiffs in federal and state court. Major practice areas were: race and gender employment discrimination; enforcement of minimum wage and overtime protections; and access for people with disabilities in public accommodations and government programs.

Disability Rights Advocates, Oakland, CA

9/97-1/02

Staff Attorney and Skadden Public Interest Law Fellow. Participated in all aspects of class action litigation in federal court seeking equal access and opportunities for people with disabilities. Major practice areas included: access to school facilities and educational programs; policies for reasonable accommodations and accurate assessments on admissions tests and professional screening exams; reasonable accommodations in the employment setting; and access to public accommodations.

Law Clerk to the Honorable Lawrence K. Karlton, U. S. District Court, Sacramento, CA

9/95-8/97

Federal clerkship involving all aspects of the civil docket and various criminal matters. Major tasks included: drafting orders, opinions, jury instructions and pretrial memoranda in civil and criminal matters; conducting extensive legal research; managing the civil docket; and supervising and teaching law students.