



James A. Lassart
201 Spear Street, Suite 1000
San Francisco, CA 94105
Direct: (415) 972-6303
Office: (415) 543-4800
Fax: (415) 972-6301
Email: jlassart@rmkb.com
Web: www.rmkb.com

James A. Lassart joined RMKB in 1986. Mr. Lassart's practice focuses on general business litigation, legal malpractice, employment litigation, fraud, defense of actions involving the Civil Rights Act, and white collar crime defense.

Prior to joining Ropers, Majeski, Mr. Lassart served 12 years as an Assistant District Attorney in San Francisco where he tried complex homicide cases followed by serving five years with the United States Attorney's office prosecuting organized crime.

While serving as an Assistant United States Attorney, Mr. Lassart was the Coordinator of the Northwest Region of The President's Organized Crime Drug Enforcement Task Force (OCDETF) supervising operations in the Northwestern United States and Hawaii. He is a seasoned trial attorney who has tried over 100 jury trials appearing in both state and federal courts.

Mr. Lassart is a former member of the Board of Governors of the University of San Francisco, a former member of the Board of Directors of the California District Attorney's Association, and a former president of the San Francisco Municipal Attorney's Association. He has been an instructor at Hastings College of the Law Trial and Advocacy Clinic in San Francisco and a lecturer and panelist for the California Continuing Education of the Bar. He is currently a co-author of a chapter of the CEB book on Criminal Law Procedure and Practice. Mr. Lassart has served as an acting examiner for the State Bar in hearings to guarantee fitness of candidates for admission. He is a member of The American Board of Trial Advocates (ABOTA), The Fellows of the American Bar Foundation and the Association of Certified Fraud Examiners.

In addition to his work with the firm, Mr. Lassart is a retired Brigadier General in the United States Army Reserve. In his last assignment as a General Officer he was responsible for the legal operations of the USAR Judge Advocate General Corp.

He received his J.D. from University of San Francisco Law School in 1967. He attended the Santa Clara University, where he received his Bachelor of Arts degree in history and philosophy

Practice Areas

- Business And Commercial Litigation

- Civil Rights
- Employment Litigation and Dispute Resolution
- Governmental Entity Liability
- White Collar Crime

Education

- Santa Clara University, 1964 B.A.
- University of San Francisco School of Law, 1967 J.D.

Court Admissions

- California
- District of Columbia
- New York
- Supreme Court of the United States
- US Court of Appeals for the Armed Forces
- US Court of Appeals for the Ninth Circuit
- USDC: Central District of California
- USDC: Eastern District of California
- USDC: Northern District of California
- USDC: Southern District of California

Memberships & Associations

- American Bar Association (ABA)
- American Bar Foundation
- American Board of Trial Advocates (ABOTA)
- Associate of Certified Fraud Examiners
- Bar Association of San Francisco
- Edward J. McFertrige American Inn of Court
- Northgate Cottage Association
- The District of Columbia Bar Association
- University of San Francisco Alumni Association
- US Department of Justice, United States Attorney, Former Assistant

Representative Experience

Practice Area: Business And Commercial Litigation, Director/Officer Liability (including Non-Profits), Directors & Officers, Professional Liability

Key Issues: Fiduciary Violations

Venue: USDC: Northern District of California

Client Type: Defendant Independent Trustee

In this securities class action case, we defended a former Independent Trustee of a federally-regulated mutual fund against allegations of fiduciary violations.

Result:

We were able to negotiate a dismissal of the case during trial as to our client only, and we thereafter successfully concluded the difficult process of obtaining an order barring cross-complaints for indemnity and contribution against our client by the non-settling defendants that was effective under the federal, California and Delaware laws which governed the issues in the litigation.

Practice Area: Business And Commercial Litigation, Contract/UCC, Directors & Officers, Professional Liability, Unfair Competition

Key Issues: Transfer Dispute

Venue: Santa Clara County Superior Court

Client Type: Defendant Software Manufacturer

We were retained literally on the night before a hearing on a temporary restraining order in a complex technology transfer dispute in which we had no prior involvement. The injunctive relief sought by plaintiff would have severely damaged or even ruined our client's business.

Result:

On extremely short notice, we were able to limit the temporary and preliminary injunctive relief sought by the plaintiff such that it did not significantly interfere with our client's business. Due to a combination of our rapid ability to analyze and defend the case, and our success in quickly identifying and resolving those issues which could be resolved, the plaintiff abandoned the litigation within six months.

Practice Area: Business And Commercial Litigation

Key Issues: False Advertising; §17500

Venue: San Mateo County Superior Court

Client Type: Defendant Auto Auction Company

In this 17200/17500 action involving automobile auctions, a court trial found in favor of our client.

Result:

Neither injunctive relief nor restitution was granted.

Practice Area: Appellate, Catastrophic/Personal Injury

Key Issues: Appeal; Assumption of the Risk; Negligence; Rock Climbing; Personal Injury; Wrongful Death

Venue: Alameda County Superior Court; California Court of Appeal, First Appellate District

Client Type: Defendant Public University

Petition for Writ of Mandate to the California Court of Appeal challenging trial court's denial of defendant University's Motion for Summary Judgment in a wrongful death case arising out of the accident death of a student during a Sierra Nevada rock climbing accident.

Result:

In a published opinion, the Court of Appeal reversed the trial court's order denying defendant's Motion for Summary Judgment, and ordered the case dismissed pursuant to the primary assumption of the risk doctrine.

Practice Area: Business And Commercial Litigation

Key Issues: Healthcare Co-Payments, Potential Class-Action claiming Co-Payments inappropriately collected between those with insurance plans and those without insurance plans

Venue: San Francisco County Superior Court

Client Type: Defendant

Plaintiffs sought to pursue a potential class-action against the Defendant public hospital, U.C.S.F. and a major private California Healthcare Provider for overbilling and medical co-payments.

Result:

The matter was resolved by successful demurrer and class was not established.

Practice Area: Business And Commercial Litigation, Corporate Governance/Partnership Disputes, Healthcare

Key Issues: Medical Partnerships; Hospitals; Staff Privileges; Emergency Room Physicians

Venue: USDC: Northern District of California

Client Type: Defendant Hospital

Defense of hospital sued by emergency room physician following his expulsion from his medical partnership. Pursuant to a contract between the partnership and the hospital, only physician members of the partnership could practice emergency room medicine at the hospital. Plaintiff physician claimed that he was wrongfully denied staff privileges in violation of the California Business and Professions Code and the hospital staff by-laws.

Result:

Summary Judgment was granted in favor of the hospital, and later upheld on appeal.

Practice Area: Appellate, Business And Commercial Litigation

Key Issues: Appeal; Errors of Law; Administrative Law

Venue: California Department of Consumer Affairs, Bureau of Automotive Repair; San Francisco County Superior Court

Client Type: Plaintiff Small Business Owner

We represented a small business owner who was licensed by the State of California to operate an automotive repair service. The State's Department of Consumer Affairs revoked our client's license following an administrative proceeding before an administrative law judge. We appealed the decision to the Superior Court on the grounds that the administrative law judge did not consider all material evidence, and on the grounds that the ALJ had made errors of law.

Result:

We secured a Writ of Mandate from the Superior Court vacating the State's decision and ordering a new administrative hearing.

Practice Area: Employment Litigation and Dispute Resolution

Key Issues: Employment, Administrative Hearing

Venue: San Francisco Police Commission

Client Type: Defendant Detective with the San Francisco Police Department

The Office of Citizens' Complaint claimed a senior detective negligently investigated a homicide. Despite the criminal's conviction, the OCC claimed he was convicted of a lesser degree of homicide than appropriate. They asserted that the investigator was biased and failed his duties.

Result:

The matter was dismissed against the detective. He was restored to duty with full benefits.

Practice Area: Business And Commercial Litigation, Governmental Entity Liability, Insurance Services, Life, Health & Disability

Key Issues: Public Universities; Government Immunity; Hospitals; Health Insurance; Insurance Co-Payments

Venue: San Francisco County Superior Court

Client Type: Defendant Public University Teaching Hospital

Potential class action against the hospitals at the University of California (San Francisco) and major private California health insurance providers for alleged overbilling on medical co-payments charged to hospital patients.

Result:

A demurrer filed on behalf of the defendant University of California hospitals was sustained at the initial pleading stage without leave to amend grounds of governmental immunity, and a judgment was entered in favor of the University.

Practice Area: Governmental Entity Liability

Key Issues: Civil Rights; Administrative Hearing; Labor; Employment

Venue: San Francisco County Superior Court

Client Type: Defendant; Police Inspector

The defendant, a police inspector, was charged with conducting a poor investigation resulting in the conviction of a defendant for manslaughter rather than murder. It was a multiple-day hearing which ended in the dismissal of the entire matter by the city police commission because of the failure of the police department's evidence. It was proved during the course of the testimony that the investigative officer from the Office of Citizen Complaints had falsified evidence and that he drew legal conclusions that were inaccurate and beyond his expertise.

Result:

The Commission dismissed all claims.

Practice Area: Employment, Employment Litigation and Dispute Resolution

Key Issues: Employment; Sexual Harassment

Venue: San Francisco County Superior Court

Client Type: Defendant; Restaurant Manager

The manager of a restaurant was accused of sexual harassment of a waitress. During the course of the investigation of the case, it was found that the waitress and a friend created a false tape recording which was inculpatory. The false, surreptitious tape was not allowed in evidence. Secondly, during the course of the investigation it was discovered that certain employment application errors and falsities diminished the plaintiff's claim.

Result:

The matter was settled at the time of limine motions for a reasonable settlement.

Practice Area: Business And Commercial Litigation, Construction

Key Issues: Construction; Indemnity; Business Litigation

Venue: San Francisco Superior Court

Client Type: Plaintiff; Property Owners

Plaintiff had an oral contract with defendant to do remodeling work while they were remodeling their property. As a result of shabby workmanship and then its concealment, plaintiffs were held liable by a purchaser case for their non-disclosure of defects based on what the contractor's work. Because of his concealment and shoddy workmanship an indemnity action was filed against the contractor.

Result:

Plaintiff homeowners prevailed and the contractor was found liable on the theory of implied indemnity. The matter was then appealed and it was settled for in excess of an amount the jury award in the Court of Appeal.

Practice Area: Civil Rights, Employment

Key Issues: Employment; Civil Rights; Administrative Hearing

Venue: San Francisco County Superior Court

Client Type: Defendant; Police Lieutenant

In this action, the Office of Citizens Complaints alleged that a police lieutenant inappropriately supervised an investigation. We were able to establish that his investigation was appropriate and well-founded. Witnesses established the OCC's investigation was biased and flawed.

Result:

The matter was dismissed.

Practice Area: Civil Rights, Governmental Entity Liability

Key Issues: Civil Rights; Employment

Venue: San Francisco Police Commission

Client Type: Defendant; Police Chief, University

Plaintiff claimed that she was assaulted by police officers during the course of a demonstration in a park located near a university. She claimed that the University negligently trained its officers and the officers physically assaulted her and violated her constitutional rights regarding searches and seizures, and use of force.

Result:

Jury Defense verdict. Court awarded attorney fees for the defense as a result of the frivolous nature of the complaint.

Practice Area: Business And Commercial Litigation

Key Issues: Breach of Contract, Promissory, Estoppel, Guarantees

Venue: Santa Clara County Superior Court

Client Type: Plaintiff; Hardware Manufacturer

Defendant agreed to guarantee a loan. Plaintiff made loan based upon the guarantee. Defendants breached with duty to repay and ultimately brought a cross-action along with a third party. On the date of trial, Defendant filed a SLAPP motion to stay the trial.

Result:

Prevailed in Trial Court and Court of Appeal; settled at JAMS.

Practice Area: Business And Commercial Litigation

Key Issues: Hospital Health Insurance, Insurance Co-Payments, Erisa

Venue: USDC: Northern District of California

Client Type: Defendant; Private Hospital

A potential class action against private hospitals and private healthcare insurance providers are alleged overbilling on medical co-payments charged to hospitals.

Result:

Motion to dismiss on behalf of Defendant. Private hospital was granted without leave based upon Erisa preemption.

Practice Area: Business And Commercial Litigation

Key Issues: Trust Liability and Trust Litigation, Discovery, Privilege, self-incrimination, fraud, and Coordinated Matter

Venue: San Francisco, San Mateo, and Shasta Superior Court

Client Type: Defendant; Trustee of an Intervivos, Trust, and an employee of the company

Coordinated civil action against the surviving trustor/trustee, and beneficiary. The trustee was an employee of the employer plaintiffs. Defendant was accused of conversion. Fraud allegations of criminal conduct were pending and required her assertion of her 5th amendment, Constitutional privilege against self-incrimination. The matter was stayed in the Superior Court under a "Pacer" motion and the matter proceeded civilly during the pendency of the criminal charges.

Result:

Defendant was granted a stay through Appellate Court action and the matter was ultimately resolved post resolution of the criminal case. Resolved by settlement.

Practice Area: Business And Commercial Litigation

Key Issues: Medical partnerships, Hospital staff privileges, Anesthesiology physicians

Venue: Alameda County Superior Court

Client Type: Defendant; Hospital

Defense of the hospital sued by an anesthesiology group claiming racial discrimination, breach of contract, breach of covenant of good faith unfair dealing, and interference with economic advantage. Plaintiff physician group claimed wrongful breach of the exclusive service contract to provide services in violation of the Business and Profession Code and other theories.

Result:

After a multi-week trial the hospital was awarded a defense verdict. All of the group and individual physician claims were denied.

Practice Area: Civil Rights

Key Issues: Civil rights, Employment

Venue: Alameda County Superior Court

Client Type: Defendant; Chief of Police and additional police officers

Plaintiff (an attorney) claimed he was assaulted and unlawfully arrested by police officers during the course of his representation of various defendants during the course of a demonstration in violation of his constitutional rights.

Result:

Defense jury verdict.

Practice Area: Employment Litigation and Dispute Resolution

Key Issues: Retaliation, Harassment, Violation of Wage and Hour Statutes

Venue: Mediation (ADR) San Francisco

Client Type: Defendant; Funeral Home Business

Defendant funeral home business, was faced with claims of retaliation, wage and hour violations, unfair practice, and wrongful termination. The claim was brought by a terminated employee who was caught mistreating staff and disobeying company rules. The matter began initially with an attempt to acquire a harassment, restraining order that was dismissed.

Result:

Once litigation was quieted the matter was mediated and settled to the advantage of the company. All forms of injunctive relief were denied.

Practice Area: Employment, White Collar Crime

Key Issues: Employment Administrative Hearing, Law Enforcement Defense, White Collar

Venue: San Francisco County Superior Court

Client Type: Defendant; Chief of the Police Department

In a politically-charged indictment the senior leadership of the Department was charged with conducting a biased investigation. Indictments were returned, however, the Chief returned to duty exonerated in a few weeks.

Result:

The case against the Chief of the Department was dismissed almost immediately. The Chief was restored to full duty and the Superior Court granted the Chief of the Department a finding of factual innocence.

Practice Area: Governmental Entity Liability

Key Issues: Lis pendens; Code enforcement; Nuisance; State and Local Housing Law violations; Landlord-Tenant

Venue: San Francisco Superior Court

Client Type: Defendant; Residential Property Owner/Manager

Plaintiff governmental entity filed a civil action against major residential rental property owner alleging building code violations, housing and Health Code violations, seeking injunctive relief and monetary penalty. After the complaint was filed the City recorded a lis pendens against the certain properties even though all code violations were remedied. Proof established the property was both habitable and safe.

Result:

The motion on behalf of defendant to expunge the lis pendens was granted on grounds that the alleged code violations were resolved and that there was no lawful basis for the lis pendens under California State Housing Law was viable. The lis pendens was ordered withdrawn.

Practice Area: Governmental Entity Liability

Key Issues: Wrongful Arrest; Theft of Property

Venue: Alameda County Superior Court

Client Type: Defendant; University

An individual brought an action against the University for bailment, theft of property and claims of discriminatory treatment based on the destruction and loss of his property left on University grounds.

Result:

The result was a defense verdict for the employer during the jury trial.

Practice Area: White Collar Crime

Key Issues: White-collar crime; Insider trading

Venue: U.S. District Court, Northern District of California

Client Type: Defendant; Individual Investor

Retained to defend individual investor on issues of insider trading from a request by SEC/DOJ and a subpoena by SEC. After a "queen for a day" agreement and informal investigation and interview was completed the matter was concluded with a finding of no wrong doing.

Result:

No indictment and no criminal case filed.

Practice Area: White Collar Crime

Key Issues: White-collar crime; Insider trading

Venue: U.S. District Court, Northern District of California

Client Type: Defendant; Union official placed on the Board of Directors of an airline

Retained by a union to represent its officer placed on a Board of Directors where a question of insider information pertaining to a merger was at issue. The individuals were named based upon their votes on the board on specific issues. The SEC was investigating and after interview the matter resolved upon negotiation with federal authorities prior to the issuance of any subpoenas.

Result:

No charges.

News

- They're the ones to call when you get into trouble., *San Francisco Chronicle*, March 11, 2003