VARNER&BRANDT LLP

# Richard Marca

Partner

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Richard Marca is a Partner on Varner & Brandt's Labor & Employment Law and Business Litigation Teams. He is also a seasoned trial attorney having successfully tried to jury verdict and bench judgments a wide variety of business and employment disputes, and is a long-time member of the prestigious American Board of Trial Advocates (ABOTA) and regularly listed and published as a Southern California Super Lawyer, a distinction extended to 5% of the lawyers in the state. He is well experienced in defending employers of all sizes in wage-hour class action and PAGA litigation matters, involving thousands of putative class members in a variety of industries.

Richard also provides seasoned counsel to senior executives and human resource managers from national employers to regional businesses and sole proprietors, on all aspects of compliance with federal and state employment laws and regulations, including litigation prevention, wage-hour, discrimination and harassment laws; reductions-in-force, employee investigations, discipline and termination issues; coordination of protected employee leaves, disability accommodations, employee safety, OSHA and privacy issues; and in developing or reviewing employment contracts, as well as human resources policies, handbooks and procedures.

If claims are made or if litigation is filed, Richard's philosophy is simple: "Win, but win smart!" This means that based on his extensive trial and real-world experience, he quickly assesses cases and develops strategies for early resolution or, if a trial is unavoidable, through result-oriented litigation. His focus is always on achieving the best result possible in an efficient, cost-effective manner. His track record with developing winning strategies is well chronicled by his many successes in the courtroom and before juries, as noted below.

Richard also successfully represents employers before federal and state governmental agencies including the Department of Fair Employment and Housing (DFEH), Department of Industrial Relations, Fair Employment and Housing Commission (FEHC), Cal/OSHA Appeals Board, California Labor Commissioner, Workers' Compensation Appeals Board, California Unemployment Appeals Board, U.S. Equal Opportunity Commission (EEOC), Mine Safety and Health Administration (MSHA), U.S. Department of Labor (DOL), National Labor Relations Board (NLRB) and before a wide variety of non-employment related governmental agencies.

He also serves as outside General Counsel to various business entities in the manufacturing, distribution, construction and professional services industries within the Inland Southern California region, where he provides individualized general counsel and oversight of services from the firm's many specialized practice areas. Richard is bilingual and fluent in Spanish.

Richard is also married and has two daughters and a son. He is an avid golfer, snow and water skier, and a lifelong loyal fan to Southern California's longest tenured NFL team, who has yet to win a Super Bowl.

FOCUS

- Labor and Employment
- Business Litigation
- Trial Practice

RECENT SUCCESSES

- Secure defense jury verdict for a skilled nursing facility with multiple locations in a wrongful termination, pregnancy and disability, failure to accommodate and retaliation case, where a pregnant employee was discharged because of attendance and unacceptable work performance issues.
- Secured defense jury verdict (the jury deliberated for approximately 16 minutes) for an international company that owns numerous food-growing farms and cattle ranches across the world, and within 11 states in the U.S.A. The case initially involved over 20 distinct causes of action for national origin and religion based discrimination, harassment, retaliation (i.e. whistleblower), false imprisonment and wrongful termination claims, and included a plethora of wage-hour violations and B&P 17200 claims. Following a motion for summary judgment, only 4 claims survived for the jury to resolve, i.e. religion-based harassment, false imprisonment, intentional infliction of emotional distress and meal period violations.
- Secured defense jury verdict for a large grocery store chain in an emotionally charged racial harassment, discrimination and wrongful termination case, where several witnesses claimed a store manager uttered racially derogatory remarks towards an African-American store employee and shortly afterwards, terminated his employment (success at both the trial and appellate level).
- Secured defense jury verdict for health-care practitioner in a sex and marital status harassment, discrimination, retaliation and wrongful termination case, where an employee claimed that after resisting unwanted propositions from her employer, she was subjected to a sexually hostile and abusive work-environment and retaliation for divorcing her husband and for starting a relationship with a new boyfriend.
- Secured defense jury verdict for health-care group in an employee's emotional claim for sex and pregnancy disability discrimination and wrongful termination, where an employee and mother of four was laid-off while on maternity leave and during a reduction in force.
- Secured plaintiff's jury verdict for medical group in defamation and unfair business practice case where defendant physician falsely told others in the medical community that plaintiff and his clinics were under investigation for Medicare fraud.
- Secured several defense jury verdicts for large grocery store chain in separate cases involving false arrest, false imprisonment and battery, and other defense jury verdicts on claims of civil rights violations and premises liability.
- Secured defense verdict for construction company in a race harassment, discrimination and wrongful termination where Columbian national claimed he was harassed by Mexican supervisors and Caucasian company owners.

RECENT SUCCESSES (cont'd)

- Secured defense judgment for national trucking company in an Americans with Disabilities Act case, involving a driver who claimed he was deprived of required interactive and reasonable accommodation processes, and wrongfully terminated while on disability leave.
- Secured multiple defense judgments for national trucking company in separate cases involving race discrimination (African-American), sexual harassment (female vs. female) and wrongful termination (Caucasian driver)
- Secured defense verdict for President of an electric company accused of real estate fraud (success at both the trial and appellate level).
- Secured multiple defense judgments for national wood manufacturing company in wrongful termination/race discrimination cases where employee claimed the company owners retaliated against him for complaining about his wages (success at both the trial and appellate level).
- Secured defense judgment for senior executive of a large publishing company accused of sexual harassment and wrongful termination by a female manager after having a consensual romantic relationship with her that eventually turned sour.
- Secured defense judgments for national financial institutions in cases involving wrongful foreclosure and fraud claims.
- Secured several Preliminary Injunctions for financial institutions, manufacturing and construction companies in Trade Secrets and Unfair Business Practices cases, and successfully defended a national manufacturing company and a national distributing company in separate Trade Secret and Unfair Business Practices (Business & Professions Code § 17200) litigation matters.
- Secured defense summary judgment for national transportation company in a national class action lawsuit alleging violations of the Fair Credit Reporting Act in connection with background checks and employee applicants. The putative class size involved well over 100,000 employee applicants with potential liability in the $100,000 million range.
- Secured several favorable resolutions for employers in defense of wage-hour class action and PAGA claims filed in federal and state courts involving putative classes ranging from 80 to over 25,000 members, and involving claims of unpaid overtime, meal and rest break premiums, unpaid minimum wage and off-the-clock work, unreimbursed expenses, itemized wage statements and unfair competition. The cases involved truck drivers, restaurant employees, nurses, manufacturing, distribution and professional office employees.
- Secured multiple dismissals of various breach of contract, fraud and Truth-in-Lending violation complaints on behalf of the FDIC acting as a receiver for a number of failed financial institutions.
- Coordinated reductions in force of international corporation involving mass layoffs in three different states and coordinated reductions in force for California companies, without drawing any adverse employee claims.
- Represented employers in employee death and serious injury cases involving the District Attorney' s office, Bureau of Investigations and OSHA, and successfully litigated the reduction of Cal/OSHA penalties from serious accident-related violations to regulatory violations.

HONORS & AWARDS

- American Board of Trial Advocates (ABOTA), Associate
- 2015-2016 Ninth Circuit Judicial Conference Lawyer Representative
- Regularly Listed and Published as Southern California Super Lawyer, Since 2007
- Phi Delta Phi, International Legal Honor Society, Pepperdine University - Prosser Inn
- 2014 Champions Award, as awarded by the Inland Empire Hispanic Leadership Council

COMMUNITY INVOLVEMENT & PRO BONO

- Association of Business Trial Lawyers, Member
- Leadership Riverside Alumnus
- Inland Empire Hispanic Leadership Council, Board of Directors, General Counsel, 2007-Present
- Served as Adjunct Professor of Employment Law at University of La Verne College of Law, 2005-2006

PUBLICATIONS

- Pre-Employment Inquiries and Employment Referencing - How to Limit the Risk of Liability, The Employers Group Management Education Series, Third Annual Inland Empire Human Resources Symposium, March, 1997
- Contingent Work Force: Pros and Cons, The Employers Group Management Education Series, June 2002
- Pre-Employment Inquiries and Employment Referencing - How to Limit the Risk of Liability, The Employers Group Management Education Series, Third Annual Inland Empire Human Resources Symposium, March, 1997
- Wrongful Demotions and Discipline: Liability Concerns for the Employer, Inland Empire Business Journal, November, 1996
- Guidelines for Internal Investigations and Resolution of Discrimination and Harassment Complaints, Employer Group Management Education Series, May, 1995
- Internal Workplace Investigations - What Has Ken Starr Taught Us?, Personnel Managers Association of Aztlan, September 17, 1998

EDUCATION

- Pepperdine University School of Law, JD, 1986
- Loma Linda University, La Sierra Campus, BS, Business Administration, 1982

ADMISSIONS

- The State Bar of California
- Riverside County Bar Association
- Riverside County Bar Association