TRAUB LIEBERMAN

NEWS & EVENTS

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Traub Lieberman Partner Robert Dennison Obtains Judgment of Dismissal for Tribal Consortium Health Agency

Related Attorneys:

In a case before the Superior Court in California, Traub Lieberman Partner Robert Dennison obtained dismissal of a disability discrimination/wrongful termination/wage & hour suit by a former employee. The firm's client, the defendant in the case, is a health service organized and run by a consortium of federally recognized Native American Tribes to provide public health and welfare services to their tribal members, their dependents, and other Native Americans/Alaskan Natives residing in the service area (the "Tribal Health Service").

The suit alleged that the Tribal Health Service discriminated against Plaintiff because she took FMLA leave for her purported physical disability and terminated her during her leave. There were allegations of breaches of California law as to meal and rest breaks, payment of overtime hours, and wage statement requirements. Mr. Dennison brought a motion to quash service and dismiss the complaint, a hybrid motion practice allowed by California courts to challenge the court's subject matter jurisdiction over a suit against a tribal organization. The motion provided evidence that the Tribal Health Service was an "arm of the Tribe" for the consortium of sovereign Tribes which created and ran it, and therefore entitled to tribal sovereign immunity. The motion, which was vigorously contested, required a detailed factual analysis by the court of five factors set out by the California Supreme Court in *People v. Miami Nation Enterprises* (2016) 2 Cal.5th 222. Ultimately, the court found that the Tribal Health Service had proved by a preponderance of the evidence that it was an "arm of the Tribe" and so entitled to tribal sovereign immunity. The court also found as a matter of law that the Tribal Health Service had not waived its tribal sovereign immunity. The court therefore granted the motion and dismissed the suit.

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