



HON. BONNIE SABRAW

Representative Cases

Anti-Slapp Motions

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www.adrservices.org

Judge Sabraw has had the unique opportunity of presiding over several anti-slapp motions, a few of which are set forth below.

Briggs v. Eden Council for Hope and Opportunity. Case No. H-180743-5. Plaintiffs brought a defamation action against Defendant based on negative comments and notations in defendant's files. Defendant brought an anti-slapp motion seeking dismissal. The motion was granted and the action dismissed. The Court of Appeal reversed. The Supreme Court reversed the Court of Appeal, reinstating the dismissal. (1999) 19 Calk. 4th 1106.

Kipperman v. Sheppard Mullin. Case No. RG03 087483. Defendant law firm brought an anti-slapp motion, challenging a professional malpractice claim. Judge Sabraw denied the motion. Settled while on appeal.

Stewart, et al. v. R.J. Reynolds Tobacco and Rolling Stone. Case No. RG07 361627. Individual rock bands allege that their names were used for unauthorized commercial purposes as part of a Camel cigarette advertising layout in Rolling Stone Magazine. Defendant Rolling Stone's anti-slapp motion denied. Appeal pending.



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Representative Cases

Business Disputes/Contract Law

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Judge Sabraw's law practice was primarily in the areas of real property and business litigation. She has presided over 100's of business disputes during her 20 years on the Bench. Listed below are a few examples of cases she handled.

Taiwan Semiconductor Manufacturing Company (TSMC) v. Semiconductor Manufacturing International Corporation (SMIC). Case No. RG06 28611. The world's largest semiconductor manufacturing company suing the largest semiconductor manufacturing company in mainland China alleging misappropriation of in excess of 1000 trade secrets and other information. Extensive case management and law and motion involving this action and action pending in mainland China. Denial of Motion for Anti-Suit Injunction affirmed on appeal. (2007) 161 Cal. App. 4th 581.

Sony Electronics v. Pinole Point Properties. Case No. HG04 18447. Commercial landlord/tenant dispute about responsibility for condition of premises when Plaintiff vacated the premises. Court trial. Affirmed on appeal. A118113 (unpublished).

Falkowski v. Imation Corp. Case Nos. H209331 and 01-052976. Action by employees of a corporation that became a wholly owned subsidiary of another company after merger. Plaintiffs claimed their stock option rights were illegally cancelled. Summary judgment granted for Defendant. Affirmed on appeal. (2005) 132 Cal. App. 4th 499.

Quality Assurance Engineering v. Voznik, et al. Case No. V-009744-6 Corporation's action against former employee alleging violation of a non-compete provision of the parties' separation agreement. Jury verdict for Plaintiff.

Cleveland v. In Light Communications, Inc. Case No. CH 216306. Breach of contract and allegations trade secret violations. \$1.1 million verdict for Plaintiff on breach of contract claim.

Don Signor Buick-Cadillac, Inc. v. General Motors Corporation. Case No. RG07 312202. Business dispute between an automobile dealer and the manufacturer regarding contract terms and unfair competition issues. Case still pending.



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Consumer Class Actions

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Judge Sabraw has presided over in excess of 100 consumer class actions which have included settlement conferences, motions for class certification, motions for approval of settlements and attorneys' fees and costs, and jury trials. Illustrative cases are listed below.

Cell phone cases. Coordinated Action No. JCCP 4332. Coordinated statewide class action lawsuits against all major wireless cell phone carriers regarding the validity of early termination fees and handset locking. Extensive case management, law and motion proceedings and two jury trials. Settlements approved in some actions for injunctive and monetary relief. Some cases still pending.

Hoffman v. American Express. Case No. 2001 022881. Nationwide class action alleging unfair business practices in connection with travel insurance for flights booked through American Express. Extensive litigation over several years including discovery issues, summary judgment motions and intensive case management. Matter still pending.

Great Expectation cases. Coordinated Action No. JCCP 4470. Coordinated action assigned by the Judicial Counsel alleging damages resulting from claims of unfair business practices related to contracts for dating services. Matters still pending.

Laser Hair Removal cases. Coordinated Action No. JCCP 4482. Coordinated action assigned by the Judicial Council alleging injury resulting from use of defendant's hair removal equipment.

Lopez v. Amber Tree Gardens, et al. Case No. RG07 308350. Plaintiffs, current and former tenants of a 61-unit apartment complex, brought claims for negligence, premises liability, retaliation, nuisance and violations of the UCL (B&P Code 17200). Motion for class certification denied based on concerns with commonality and manageability. Case still pending on individual actions.

Ammari Electronics v. SBC Communications and Kozdin, et al. v. Pacific Bell Directory. Case Nos. RG05 220096. Class actions alleging failure to deliver and misdelivery of Yellow Pages as contracted. Motion for class certification granted. Writ denied. Case still pending.

Moore v. Genesco, Inc., et al. Case No. RG06 270570. Class claims alleging improper check cashing fees. Preliminary approval of settlement granted.



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Representative Cases

Construction Defect

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Judge Sabraw has had extensive experience with construction defect litigation, both as a litigator and a judge. The list below is a few illustrative cases Judge Sabraw handled while on the bench.

Olson 737-Oakland v. UPA Group, et al. Case No. RG07 344917. Complex multi-party action involving \$55 to \$62 million performance bond dispute and construction defect issues brought in connection with the large Oakland City Walk Project. Matter still pending.

Vila Construction, Inc. v. The Quarry Lane School. Case No. VG07 356140. General Contractor's action alleging breach of contract and mechanic's lien issues against owner, construction manager and lender on multi-million dollar construction project. This case was handled by Judge Sabraw as part of her complex civil litigation case load.

County of Alameda v. N.V. Heathorn, Inc. and USF&G, and related cross-claims. Case No. 2001-021935. Public works contract dispute over construction scheduling and costs for the retrofit work at Highland Hospital in Oakland, California. Jury trial. Verdict for Heathorn for \$900,000 on its cross claim of \$2 million.

Bauer v. Black Mountain Development, et al. and related cross action. Case No. CV017907-0. Jury trial on general contractor's cross claim against subcontractors alleging defects related to flooring installation. Verdict for cross-defendant subcontractors.

California Brookside Owners v. Kaufman & Broad of Northern California. Case No. VG05 234175. Homeowner association action against developer alleging construction defects to 123 condominium units and appurtenant common areas. Judge Sabraw conducted extensive case management conferences. Matter still pending.

Portola Meadows Townhomes v. Davidon Homes. Case No. CV 020385. Homeowner Association's action alleging multiple construction defects. This matter was assigned to Judge Sabraw for jury trial. After ruling on in limine motions settlement conferences were conducted and matter settled.

Hayward Ridgeview v. Pringle Construction. Case No. RG05 244128. Homeowner Association's action against developer alleging construction defects in 32 single family homes. Matter handled by Judge Sabraw as part of her complex litigation assignment.



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Eminent Domain and Land Use

Judge Sabraw has extensive experience, both as a litigator and as a trial judge, in the area of land use and eminent domain issues. In 2007 she was a guest speaker at the CLE International Eminent Domain conference on “The View From the Bench – How Condemnation Cases are Different.” Illustrative cases she handled while on the Bench are set forth below.

PG&E v. King & Lyon. Case No. HG03 081237. Eminent domain action to acquire a PG&E easement through research and development property. Case settled at judicially supervised settlement conference.

BART v. City and County of San Francisco, et al. Case No. HG03 099024. Condemnation action involving properties necessary for BART expansion in southern Alameda County. Settled after several settlement conferences, which included participation of several non-party public agencies. *Companion case of BART v. Blankstein*. Case No. HG03 109969, also settled at a settlement conference.

Save our Sunol, Inc. v. Mission Valley Rock Company, et al. Case No. 2002 050281. Opponents of a quarry project sued the excavation company and landowner to enjoin the expansion of a quarry in Alameda County on land owned by the City and County of San Francisco, alleging the expansion was in violation of a county initiative amending the general plan. Summary Judgment granted for defendants. Affirmed on appeal. (2004) 124 Cal. App. 4th 276.

Center for Biological Diversity, Inc. v. FPL Group Inc. Case No. RG04 183113. Nonprofit organization dedicated to protecting wild life brought an action against the owners and operators of energy producing wind turbines based on allegations that the turbine blades were killing birds. Defendant’s Motion for Judgment on the Pleadings granted. Affirmed on appeal (2008) 166 Cal. App. 4th 1349.

Vermeij v. Hayward Area Recreation & Park Dist. Case No. CH-206217. Landslide damage claim against the park district. Case involved significant governmental immunity issues. Jury trial. Verdict for defendant.



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Employment Class Actions

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Tate v. Kaiser Permanente, et al. Case No. RG07 318416. Class action alleging overtime pay and rest and meal break violations. Extensive case management. Defendant's Motion for Summary Judgment denied. Plaintiff's Motion for Class Certification granted in part. Action still pending.

Shahrokhshahi v. Round Table Pizza. Case No. RG05 194700. Wage and hour class action. Judge Sabraw granted preliminary and final settlement approval.

Connell v. Sun Microsystems. Case No. RG06 252310. Class action alleging misclassification of employees. Settlement after class certification granted. Judge Sabraw granted preliminary and final approval for class settlement.

Garcia v. Oracle Corporation and Peoplesoft, Inc. Case No. RG07 321026. Class action alleging failure to pay wages for overtime and meal and rest breaks. Matter still pending.

Woodfin Suite Hotels, LLC v. City of Emeryville and related action Martinez v. Woodfin Suite Hotels, LLC. Case Nos. RG07 357953 and RG06 291309. Challenge to constitutionality and application of City ordinance regulating wages and benefits for hotel workers. Woodfin Hotel's writ of mandate granted in part.

Harsbans v. HFS North America. Case No HG06 296440. Class action by delivery drivers to Star Buck Coffee houses on issues of meal and rest breaks. Matter still pending.



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Employment

Judge Sabraw has handled all types of employment actions, including wrongful terminations, retaliation, whistle blower cases, sexual harassment, sexual and racial discrimination, disability discrimination, as well as numerous class actions alleging wage and hour violations, exempt versus non-exempt issues, and employer versus subcontractor matters. Some illustrative cases are listed below.

Lindstrom v. Columbia-San Leandro Hospital. Case No. H1960392. Allegations of wrongful termination and Violation of Public Policy. Plaintiff, a hospital nurse manager at the hospital brought suit based on allegations that she was fired after complaining about possible violations of law at the hospital. Jury verdict: \$540,000.

Broughton v. Media Copy. Case No. H-189676. Employment discrimination 5-week jury trial alleging harassment and racial discrimination. Judge Sabraw assisted the parties in settling for a confidential amount during the punitive damage phase.

Debro v. San Leandro Unified School District, et al. (Case No. CH 211565). Action alleging racial discrimination and free speech violations. Jury verdict for Plaintiff. Settled after judicially supervised settlement conference during punitive damage phase.

Charles v. California Dept. of Transportation. (Case No. RG03 112609). Action alleging sexual harassment, retaliation, and hostile work environment. \$345,000 jury verdict for Plaintiff.

Palmer-Baer v. Scott Co. of Calif., et al. Case No. H-202528-5. Jury trial alleging sexual harassment, retaliation and discrimination. Verdict for Plaintiff for \$5,000.

Lemke v. BCI Coca-Cola of Los Angeles. Case No. 2002-074745. Action alleging disability discrimination. Jury trial. Verdict for Plaintiff.



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California Environmental Quality Act (CEQA) Actions

Judge Sabraw was the designated CEQA judge for Alameda County from 2001 to 2006. During that time she heard numerous writ petitions alleging all type of CEQA violations related to quarry development, construction projects, water preservation, endangered species, historical structures, disputes among governmental agencies, park and recreation use, transit matters, and waste management. Some illustrative matters are set forth below:

Citizens for Megaplex-Free Alameda v. City of Alameda (Alameda Entertainment Associates L.P., Real Party in Interest). Case No. RG05 235478. Plaintiff Association filed petition for writ of mandamus against City alleging that City's failure to require preparation of an environmental impact report (EIR) for a theater project violated CEQA. The writ Petition was denied. Affirmed on Appeal (2007) 149 Cal. App. 4th 91. Petition for review by Supreme Court denied.

Bowman, et al. v. City of Berkeley (Affordable Housing Associates, Real Party in Interest). Case No. 2002 057279. Judge Sabraw granted, on due process grounds, vacation of the City's initial approval of construction of the housing complex, but ultimately denied Writ of Mandate challenging the project after construction was reapproved. Plaintiffs sought fees and costs incurred in setting aside approval on due process grounds. The Court awarded fees and costs to Plaintiffs. Affirmed twice on appeal (2004) 122 Cal. App. 4th 572 (Bowman I) and (2005) 131 Cal. App. 4th 173 (Bowman II).

West Davis Neighbors v. The Regents of the University of California. Case No. HG03 132799. CEQA challenge to the UC Regents Long Range Development Plan involving 225 acres of UC property planned for a new on-campus neighborhood at the UC Davis campus. Judge Sabraw denied the writ of mandate. Affirmed on appeal – A 108104 (unpublished).

Fuller and Livermore Valley Tennis Club II v. City of Livermore (Callahan Property Co. and Valleycare Health System, Real Parties in Interest.) Case No. CV 020865-5. CEQA challenge by the owner of a competing facility for the construction of a health and wellness facility and medical office building in the City of Livermore. Judge Sabraw denied the writ of mandate. No appeal filed.

Neptune Beach Neighborhood Association v. Alameda Multi-Cultural Community Center, et al. and City of Alameda, et al. Case No. 826873-2. CEQA challenge to the City's

issuance of a Conditional Use Permit to operate a private club in the City of Alameda, alleging that the City improperly found the project to fall within a categorical exemption under CEQA. Judge Sabraw denied the writ of mandate.

Karuk Tribe of California, et al. v. California Dept. of Fish and Game Case No. RG05 211597. CEQA action challenging the Department's issuance of suction dredge mining permits to miners and its impact on Coho salmon and other fish. Judge Sabraw assisted in the parties reaching a stipulated judgment.

Hayward Area Planning Ass'n v. City of Hayward (Hayward 1900 Inc., et al., Real Parties in Interest) Case No. 2002 069185. Citizens group's CEQA challenge to large development projects in Hayward. The Writ of Mandate was denied. An appeal was filed on the issue of costs awarded. (2005) 128 Cal. App. 4th 176

Dorsey, et al. v. City of Oakland, et al. (The DeSilva Group, Inc., Gallagher Properties, Inc., Real Parties in Interest). CEQA challenge to the development of the Leona Quarry site in Oakland, CA for residential use, alleging lack of substantial evidence to support approval of the project. Petition for Writ of Mandate granted. The matter thereafter settled.

Livermore Area Recreation & Park District v. City of Dublin, et al. (Braddock & Logan Services, Inc., Real Party in Interest) Case No. 2002-055268 CEQA challenge by the Park and Recreation District to the City of Dublin's Development Plan and annexation of 1,120 acres of open space for residential, commercial, and industrial use. Petition for Writ of Mandate denied. No appeal filed.

Westside Association to Save Agriculture v. City of Healdsburg, et al. (Syar Industries, Inc., County of Sonoma, Department of Conservation, division of Mines and Geology, Dept. of Fish and game. Town of Windsor, and Friends of the Russian River, Real Parties in Interest). Case No. 2002-045680. Complex multi-party CEQA action involving a reclamation plan for waste water disposal for the City of Healdsburg.

Berkeley Architectural Heritage Association v. City of Berkeley, et al. (Touriel Building, LLC, et al., Real Parties in Interest). Case No. 2002 076195. CEQA challenge to the City of Berkeley's approval of the demolition of the John M. Doyle House, a building Plaintiff maintains was designated as a historically significant structure. Writ of Mandate denied. No appeal filed.

Alisal Improvement Club v. City of Pleasanton (Spotorno, et al., Real Parties in Interest). Case No. 2002 067777. Land use issues, including CEQA, challenging the annexation and development of rural lands for the construction and operation of a golf course by the City of Pleasanton. Judge Sabraw denied the writ. No appeal filed.

Rogers v. The Regents of the University of California (All Star Investment, Real Party in Interest). Case No. 2002-047407. CEQA challenge to the Regents' approval of the UC Davis Conference Center, Hotel, and Graduate School of Management Building. Writ of Mandate was denied. No appeal filed.

Gordillo and United Food and Commercial Workers Union Local 870 v. City of Fremont (Wal-Mart Stores, Inc., Real Party in Interest) Case No. HG03 101389. CEQA challenge by labor union to the construction of a Wal-Mart store in the City of Fremont. The Writ of Mandate was denied. No appeal filed.

Islamic Cultural Center of Northern California v. City of Oakland (Affordable Housing Associates, Real Parties in Interest.) Case No. RG 03 133394. CEQA challenge to City's approval of a mixed use project based on alleged impacts to historic resources, soil and water contamination, noise, and parking. Writ of Mandate denied. No appeal filed.



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Government Law

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Judge Sabraw has handled several governmental actions involving complex constitutional and other governmental issues.

People's Advocate and National Tax Limitation Foundation v. Independent Citizen's Oversight Committee, et al. and California Family Bioethics Council v. California Institute for Regenerative Medicine. Case Nos. HG05 206766 and HG05 235177. Constitutional challenges to Proposition 71, the State initiative granting \$3 billion in funding for stem cell research. Two related cases assigned to Judge Sabraw for all purposes, including court trial. After trial Judge Sabraw held that the initiative was constitutional. Affirmed on appeal. Petition for rehearing before the Supreme Court was denied. (2007) 137 Cal. App. 4th 1319.

Woodfin Suite Hotels, LLC v. City of Emeryville and related action Martinez v. Woodfin Suite Hotels, LLC. Case Nos. RG07 357953 and RG06 291309. Challenge to constitutionality and application of City ordinance regulating wages and benefits for hotel workers. Woodfin Hotel's writ of mandate granted in part.

Save our Sunol, Inc. v. Mission Valley Rock Company, et al. Case No. 2002 050281. Opponents of a quarry project sued the excavation company and landowner to enjoin the expansion of a quarry in Alameda County on land owned by the City and County of San Francisco. Plaintiff alleged the expansion was in violation of a county initiative amending the county's general plan. Summary Judgment granted for defendants. Affirmed on appeal. (2004) 124 Cal. App. 4th 276.

Vermey v. Hayward Area Recreation & Park Dist. Case No. CH-206217. Landslide damage claim against the recreation and park district. Case involved significant governmental immunity issues. Jury trial. Verdict for defendant.



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Insurance Coverage

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Western MacArthur v. United States Fidelity and Guaranty Insurance Company and related cases (C-721595 and 2002-067900). Coverage claims against multiple insurance carriers involving in excess of 20,000 current claims plus future claims for asbestos related injuries brought against Western MacArthur. After extensive litigation for several years, including jury and court trials, all cases settled for approximately \$2.2 billion.

Gillett, et al. v. Metropolitan Life Insurance Company. Case No. C76822. Four cases selected out of hundreds of pending cases alleging Met Life was responsible for Plaintiff's contracting asbestos related diseases. Judge Sabraw granted summary judgment for defendant. All of the pending cases settled while the four cases were on appeal.

Olson 737-Oakland v. UPA Group, et al. Case No. RG07 344917. Complex multi-party action involving \$55 to \$62 million performance bond dispute and construction defect issues brought in connection with the large Oakland City Walk Project. Matter still pending.



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Medical Malpractice

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Judge Sabraw has presided over numerous medical malpractice actions over her 20 years on the bench. Illustrative cases are listed below.

Leyvas v. Washington Hospital and Paragas, M.D. (CH 7988684) Medical Malpractice jury trial alleging that delay in treatment of jaundiced newborn by the pediatrician and hospital resulted in quadriplegia and cerebral palsy. Jury verdict \$83 million.

DeCambra v. Rippey, M.D. Case No. 7781874. Complications from epidural injection. Jury trial. Plaintiff's verdict.

Trask v. Pinsker, M.D. Case No. H-205120-8. Malpractice allegations related to anesthesia awareness during heart surgery. Jury trial. Defense verdict.

Weigand v. Schiffer, M.D. Case No. HG03 111905. Medical Malpractice action alleging negligent surgery of cervical spine. Judge Sabraw assisted the parties in settling the entire action during jury trial.



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Personal Injury

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Judge Sabraw has presided over hundreds of jury trials involving claims for personal injury. She has also successfully brought the parties to settlement in an even greater number of cases. Illustrative cases are set forth below.

Demian v. Enterprise Rent-A-Car, et al. Case Nos. HG04 165692 and HG04 166260. Ford van rollover accident with 14 young adult occupants. Five of the passengers died in the accident and the other nine occupants were all seriously injured. Confidential settlement during trial.

Leyvas v. Washington Hospital and Paragas, M.D. (CH 7988684) Medical Malpractice jury trial alleging that delay in treatment of jaundiced newborn by the pediatrician and hospital resulted in quadriplegia and cerebral palsy. Jury verdict \$83 million.

Heiner v. Kmart Corporation. Case No. H-183896. Plaintiff, a dentist, suffered injury after being assaulted by a Kmart security guard and brought an action alleging claims of negligence, battery and negligent infliction of emotional distress. The jury awarded plaintiff \$3.8 million. Affirmed on appeal. (2000) 84 Cal. App. 4th 335.

Dunsing, et al. v. AmeriGas, Inc., et al. Case No. HG04 18669. Wrongful death action. Decedent, a truck driver responsible for loading and unloading propane gas from tanker trucks suffered a horrific death when his clothing became entangled in a part of the truck crank mechanism and he could not disentangle himself. Case settled after several settlement conferences involving very emotional issues.

Modica v. Riddle, et al. Case No. 2002 051077. Chain reaction freeway accident with serious injuries to three family members. Jury verdict \$4.4 million.

Echard v. Serendipity, et al. Case No. HG03 106010 and related actions. Multiple actions arising out of two buses colliding. Cases settled after extensive settlement conferences.

Welding Product Cases. Case No. JCCP 4368. Approximately 80 coordinated cases alleging plaintiffs were injured by exposure to toxic manganese fumes. Extensive case management, law and motion and discovery issues. Several of the cases have been resolved.

Ong v. Pacific Coast Sports and All Pro Wrestling. Case No. 2002 0382484. Wrongful death. Decedent's parents alleged defendant wrestling school was reckless in requesting that their 27 year old son, a beginner wrestling student, volunteer to be subjected to wrestling throws from a 7-foot, 400 pound semi-pro wrestler that the school was promoting. Jury verdict \$1.3 million net to Plaintiffs.

Donnellan v. DEB Construction. Case No. H 213904. Personal injury action alleging serious injury resulting from a dangerous condition at work. Jury trial. Verdict for plaintiff.



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Toxic Torts

Judge Sabraw has had extensive experience in the area of toxic tort actions, including managing statewide multi-case coordinated actions, allegations of violations of the California Safe Drinking Water and Toxic Enforcement Act (Proposition 65), and asbestos cases. Illustrative cases are listed below.

Welding Product Cases. Case No. JCCP 4368. Approximately 80 coordinated cases alleging plaintiffs were injured by exposure to toxic manganese fumes. Extensive case management, law and motion and discovery issues. Several of the cases have been resolved.

Dipirro v. Bondo Corporation. Case No. 01-032519. Individual complaint against the manufacturer of automobile touch-up paint alleging a violation of Proposition 65, the California Safe Drinking Water and Toxic Enforcement Act. Judge Sabraw bifurcated the action and after a court trial on the manufacturer's defense of statutory exemption from warning provisions of the Act entered judgment for the manufacturer. Affirmed on appeal. (2007) 153 Cal. App. 4th 150. Related case against numerous automobile dealers on similar issues: *Dipirro v. American Isuzu, et al.* Case No. 02-048648. Affirmed on appeal. (2004) 119 Cal. App. 4th 966.

People of the State of California v. Mattel, Inc. Case No. RG07 356892. State action against toy manufacturer alleging violations of Proposition 65 based on toxic materials in toys. Case still pending.

Dipirro v. Gateway, Dell, Hewlett Packard, et al. Case No. RG07 33492. Dipirro, an interested individual, filed a complaint against computer manufacturers alleging a violation of Proposition 65. Case settled in judicially supervised settlement conference.

Gillett, et al. v. Metropolitan Life Insurance Company. Case No. C76822. Four cases selected out of hundreds of pending cases alleging Met Life was responsible for Plaintiff's contracting asbestos related diseases. Judge Sabraw granted summary judgment for defendant. All of the pending cases settled while the four cases were on appeal.

Smart v. A.W. Chesterton Co. Case No. RG07 354591. Multi-party asbestos related personal injury action. Case settled at a supervised settlement conference for a confidential amount.