

LITIGATION DIGEST



Friday, December 15, 2023

Over the past couple of weeks, CRLA clients and advocates have creatively engaged in zealous advocacy in a number of significant litigation cases. We wanted to share out to all of you a snapshot of these cases that highlights the tremendous work of TJP team members, Anna Baryudin, Chloe McGrath Wright, Aurora Thome, Laura Ferree, Adrian Renner, Shawnta Enriquez, Pilar Trevino, and Daisy Melendrez; CEI advocates Elias Rodriguez, Uriel Mendoza, and Erin Noel; Salinas AWP and MLP Attorneys Dennise Silva and Daniel Nesbit; RJU Attorneys Stephanie Ozomaro and Monica Sousa; SOS Attorneys Stephanie Miranda and Angela Breining; and Senior Litigators Mariah Thompson and Josephine Weinberg.

Cases

- Holding Superior Courts accountable
- Fighting for safe drinking water
- Confronting workplace sexual harassment
- Protecting agricultural workers and rural communities from dangerous pesticides
- Advocating to allow rural residents to live safely and with dignity in Mobile Home Parks



Holding Superior Courts Accountable

The Issue

A pro per tenant facing an eviction did everything she was supposed to do to make sure she could have her day in court at her unlawful detainer trial yet was denied due process and lost through no fault of her own.

The facts

The tenant has serious mobility issues and other disabilities that made it extremely difficult for her to appear at the trial in person. She submitted multiple Reasonable Accommodation requests and properly requested a remote appearance for trial. On the day of her trial, she timely appeared via Zoom. Yet her hearing had been moved to a different department and she was unable to remotely appear in the appropriate department. After being informed of the problem, the court refused to hear the trial in the department where our client was waiting, stated on the record that the tenant 'was not present' and entered judgment against our client. The tenant was facing imminent homelessness with a lockout date of December 20th.

Our Response

Tenant Justice Project Attorneys Anna Baryudin and Chloe McGrath Wright, with assistance from Aurora Thome, Laura Ferree, Adrian Renner, Shawnta Enriquez, Pilar Trevino, Daisy Melendrez, and the SOS Team, filed a Writ of Mandate against the Ventura County Superior Court on behalf of the tenant. The Writ spelled out the Courts' obligations to ensure that its services are accessible to people with disabilities and the legal errors committed by the judge.

Fighting for safe drinking water

The Issue

Nitrate contamination of rural water supplies from agricultural fertilizers is a public health crisis in agricultural areas across California and impacts CRLA's client communities. Nitrate contamination causes cancer and can be fatal to infants.

The facts

Following many years of pressure from CRLA clients and community groups, in 2021 the Central Coast Regional Water Quality Control Board adopted a regulation placing enforceable limits on the use of fertilizers that hurt our clients. Yet the State Water Board thereafter issued a new regulation that rescinded the numerical limits just months before the initial compliance date was set to kick in. Rural communities lost this important protection for their water.

Our Response

Elias Rodriguez and Uriel Mendoza (and many other individuals and groups concerned about safe-drinking water for rural Central Coast communities) travelled to Sacramento to provide public comment to urge the State Board to maintain Regional Board's health-protective fertilizer limits. Following the State Board's action to rescind those limits, Elias, Erin Noel, and Mariah Thompson (on behalf of their client, the CRLA Salinas Comité) and various co-counsel (Environmental Law Foundation; Stanford Law School Environmental Law Clinic; and California Coastkeeper) filed a writ of mandate against the State Water Board. On December 8, 2023, the Salinas Comité and other Plaintiff groups filed their application with the Alameda County Superior Court to stay the State Board's action to allow the health-protective regulation to remain in effect.

Confronting workplace sexual harassment

The Issue

Our client, a farmworker who harvested strawberries, was a victim of verbal and physical sexual harassment by the owner of the company.

The facts

Our client worked for several seasons with a medium size strawberry grower. The owner of the company regularly made comments about our client's body and would sexually proposition our client. Our client would try to ignore him or tell him to stop. During our client's last season, the harassment intensified. On what would be her last day of work for the season, our client was sexually assaulted. While our client was in her car, the owner leaned into her car, groped her breasts and tried to kiss her. Our client escaped in her car, called the police and also submitted a complaint to the California Civil Rights Department (CRD). Our client also had text messages with the owner telling him what he had done was wrong. His responses were implied admissions.

Confronting workplace sexual harassment Continued

Our Response

Josephine Weinberg and Dennise Silva, along with co-counsel Jennifer Reisch are litigating this case. We represented our client at a CRD mediation which was unsuccessful, where the company and owner claimed they would go bankrupt if forced to pay a settlement. The CRD legal department became interested in this case and decided to pursue litigation on behalf of our client. We intervened into the case to represent not only our client's sexual harassment claims, but her wage and hour claims as well. We are working collaboratively with the CRD to move this case forward. Defendants have made an offer of settlement, still claiming they are on the brink of bankruptcy. We have demanded financial documents to assess the truth of these claims. We are working with a financial forensics expert who is making this assessment for us. To date, many red flags have been raised with respect to the bankruptcy claims of Defendants.

Meanwhile we are also attempting to get funds for our client from the Victim's Compensation Board. Our client was denied these funds based on her decision to not pursue charges against the harasser. We believe this decision runs counter to the law and are appealing this decision.

Protecting agricultural workers and rural communities from dangerous pesticides

The Issue

The fumigant pesticide 1,3 Dichloropropene (1, 3-D) causes cancer and is banned in 34 countries, but in California is the third most heavily used pesticide in agriculture.

The facts

The Department of Pesticide Regulation (DPR) had never even attempted to implement a lawful regulation of 1,3-D until the Alameda County Superior Court required it to do so by granting a writ in an action filed by CRLA. Dow Agrosiences, the manufacturer of 1,3-D appealed the decision, which was affirmed by the Appellate Court.

Astonishingly, in the face of an order compelling it to adopt a regulation to address cancer risks to people who work and live near fields treated with 1,3-D, DPR proposed a regulation designed solely to address cancer risks of people who live near fields. DPR's proposed regulation was not designed to protect agricultural workers from 1,3-D cancer risks.

Our Response

Daniel Nesbit and Mike Meuter, along with co-counsel Michael Freund, filed a motion with the Superior Court requesting that it enforce the writ it issued back in 2018. The Court agreed that DPR had failed to comply with the writ, and ordered DPR (again) to adopt a regulation designed to address cancer risks of agricultural workers. Attorneys engaging in this type of enforcement activity are entitled to an award of attorneys' fees, and the Court granted CRLA's motion for fees. The attorneys' fees check of \$59,500 payable to CRLA was received on December 1, 2023. CRLA continues to monitor DPR's progress towards adopting a final regulation that protects both agricultural workers and people living near fields treated with 1,3-D.

Advocating to allow rural residents to live safely and with dignity in Mobile Home Parks

The Issue

San Joaquin County filed a nuisance abatement action against a run-down mobile home park, the Stockton Park Village. Mark Adams was appointed as the Receiver to rehabilitate the MHP in 2021.

The facts

For more than two years, little was done to improve the park and there were excessive delays in the Receiver's attempts to resolve tax liens, sell the property, and address other instructions from the Court. The Receiver recently submitted a request to the Court to be paid more than \$400,000 in fees. CRLA's clients who reside at the Park strongly oppose the request since from their perspective the Receiver had essentially done nothing to improve the conditions of the Park.

Our Response

Stephanie Ozomaro and Monica Sousa filed objections to every single monthly report on fees submitted by the Receiver since his appointment. With legal research and writing assistance from Angela Breining and Stephanie Miranda of the SOS Team, Stephanie O and Monica responded to oppose the Receiver's \$400,000 fees request. On December 8, 2023, the Judge found that the evidence submitted in support of the Receiver's fee request was inadequate and ordered the Receiver to submit billing statements and additional documentation to respond to CRLA's objections. Mark Adams was apparently expecting the court to rubber-stamp his request, and filed a rant of a declaration following the Judge's decision to continue the hearing to January 28, 2024.

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More Mobile Home Park Advocacy

Shady Lakes Mobile Home Park

In a truly historic result, the courageous and very-well organized residents of the Shady Lakes Mobile Home Park near Fresno have settled their long-running lawsuit against Harmony. The settlement terms agreed to by the residents, primarily Indigenous Mexicans from San Miguel Cuevas in Oaxaca, include payment of \$200,000 and a promise from the defendant to sell the mobile home park to the residents. Mariah Thompson led this litigation for CRLA, with assistance from the CEI team and CRLA's LJI Team, co-counsel Western Center on Law and Poverty and the Morrison Foerster firm, and UC Irving and Roots of Change helping with the park purchase details.

La Hacienda Mobile Home Park

Positive developments in another CEI lawsuit led by Mariah Thompson on behalf of residents of the La Hacienda Mobile Home Park in Fresno: On December 7, 2023, the City of Fresno announced its intent to file an injunction against Harmony to prevent closure of the park. The City is considering filing TROs against pending evictions filed by Harmon. The City also took a vote that will result in \$6.6 million of City funds being made available for the purchase and rehabilitation of the park.

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