

FIRM DESCRIPTION

Called a “Big Gun” and “High Profile” by the *San Francisco Chronicle* and the *Recorder*, and a “Top Law Firm” by the *National Law Journal*, Lafayette & Kumagai LLP is a minority-owned boutique litigation firm that specializes in business torts, employment, complex litigation and trials. The twenty-three-year-old firm has earned a reputation for excellence and for providing strong advocacy. Lafayette & Kumagai received the 2011 Minority-Owned Law Firm Client Service Award, presented by the California Minority Counsel Program for outstanding client service. The firm has been listed in “Litigation Kings” for 2012 and in “Who Represents America’s Biggest Companies?” for 2008, 2010, 2011, 2012, 2014 and 2015, in *Corporate Counsel* magazine’s annual report on the law firms most used by the *Fortune* 100. Alameda City Manager (and former Oakland City Attorney) John Russo noted to the *Recorder*, “... political players involved in a case may dictate which firm is chosen. Mayor [and California Governor] Jerry Brown, for example, likes to use San Francisco’s Lafayette & Kumagai.”

PUBLISHED OPINIONS

HUD v. Rucker, 535 U.S. 125 (2002)

The firm argued and won an appeal in the United States Supreme Court on behalf of the Oakland Housing Authority in an action challenging the constitutionality of the agency’s “one strike” rule, which enables the agency to evict a tenant for use of illegal drugs on the premises by the tenant, its family members or guests. Related opinions: *Rucker v. Davis*, 304 F.3d 904 (9th Cir. 2002); *Rucker v. Davis*, 237 F.3d 1113 (9th Cir. 2001); *Rucker v. Davis*, 203 F.3d 627 (9th Cir. 2000)

Alvis v. AT&T, 377 Fed.Appx. 673 (9th Cir. 2010)

Plaintiff alleged wrongful denial of short term disability benefits. Defendant’s Motion for Summary Judgment was granted in its entirety and affirmed on appeal.

Embury v. King, 179 Fed. Appx. 409 (9th Cir. 2006)

Plaintiff, a physician and researcher, claimed he was entitled to tenure and could not be terminated for deficiencies in his performance. The Court of Appeals reversed the denial of Defendant’s Motion for Summary Judgment. Related opinions: *Embury v. King*, 361 F.3d 562 (9th Cir. 2004); *Embury v. King*, 191 F.Supp.2d 1071 (2001)

U.S. ex rel. Honeywell, Inc. v. San Francisco Housing Authority, 83 Fed.Appx. 181 (9th Cir. 2003)

Plaintiff first filed suit for \$10.5 million, claiming that its contract to make energy-saving improvements to 13 senior housing complexes with the San Francisco Housing Authority was valid. The Housing Authority, represented by Lafayette & Kumagai, contended that Plaintiff invalidated the contract by failing to secure the necessary financing as required by a prior agreement and that work completed certificates had been obtained during a round of office layoffs amid the HUD takeover of the agency. When the Housing Authority denied the existence of a contract, Plaintiff filed a qui tam action against the Housing Authority under the federal False Claims Act, contending that the Housing Authority had applied for and received federal funding by representing that it did have a contract with Plaintiff. The breach of contract action was tried to a jury; after two hours of deliberation, the jury returned a defense verdict. Following the trial, Defendant moved to dismiss the qui tam action, in part on grounds that damages under the False Claims Act are essentially punitive in nature, and there is a presumption against imposing punitive damages against governmental entities based on a recent U. S. Supreme Court decision. The District Court agreed and dismissed the qui tam action. Related opinion: *Honeywell v. San Francisco Housing Authority*, 164 F.Supp.2d 1130 (2001)

In re Unicom Corp., 21 F.3d 1116 (9th Cir. 1994)

Lafayette & Kumagai represented IBM in a preference action filed by debtor Unicom Computers, represented by the bankruptcy firm of Goldberg, Stinnett & MacDonald. The claim involved a \$1 million dispute. IBM prevailed at trial after successfully arguing that IBM met the “ordinary course of business” exception.

In re Berr (Berr v. FDIC), 172 BR 299 (9th Cir. BAP 1994)

United States District Court, Eastern District. Lafayette & Kumagai represented the FDIC in a bankruptcy adversary proceeding seeking to avoid the borrower’s discharge of debt to the FDIC. This action involved a “straw borrower” who was alleged to have conspired with insiders in a scheme to defraud the Indian Springs State Bank in Kansas. The debtor sought to discharge his debt in bankruptcy and offered as his defense the fact that the bank vice president knew he was acting as a “straw borrower.” Lafayette & Kumagai relied upon *D’Oench Duhme & Company v. FDIC*, 315 U.S. 447 (1942) in a successful defense at trial.

Reeves v. MV Transportation, Inc., 186 Cal.App.4th 666 (2010)

The California Court of Appeal affirmed the Superior Court's grant of Defendant's Motion for Summary Judgment in a case in which an attorney claimed that he was wrongfully denied a position as an employment attorney in Defendant's legal department because of his age. In affirming the trial court's decision, the Court of Appeal held that inconsistencies regarding the employer's decisions for its actions did not demonstrate a triable issue of fact regarding the intent to discriminate. Defendant MV Transportation, Inc. was represented by Gary T. Lafayette of Lafayette & Kumagai LLP.

Cerna v. City of Oakland, 161 Cal.App.4th 1340 (2008)

The firm argued and won an appeal in the California Court of Appeal on behalf of the Oakland Unified School District in an action where the Court held that a city intersection did not create a dangerous condition for students and the school district was not responsible for the safety of students off school premises.

Wellpoint Health Networks, Inc. v. Superior Court of Los Angeles County, 59 Cal.App.4th 110 (1997)

The firm argued and won an appeal in the California Court of Appeal on behalf of Blue Cross of California in an action challenging work place investigations.

Donohue v. San Francisco Housing Authority, 16 Cal.App.4th 658 (1993)

The firm used an application of the "Fireman's Rule" to bring this case to a successful resolution for the San Francisco Housing Authority. Related opinion: *Donohue v. San Francisco Housing Authority*, 281 Cal.Rptr. 446 (1991)

Williby v. California, 276 Fed.Appx. 663 (9th Cir., 2008)

Burgess v. Carmichael, 224 Fed.Appx 701 (9th Cir., 2007)

Embury v. King, 361 F.3d 562 (9th Cir. 2004)

Lifescan, Inc. v. Premier Diabetic Services, Inc., 363 F.3d 1010 (9th Cir. 2004)

Rucker v. Davis, 304 F.3d 904 (9th Cir. 2002)

Rucker v. Davis, 237 F.3d 1113 (9th Cir. 2001)

Rucker v. Davis, 203 F.3d 627 (9th Cir. 2000)

Embury v. King, 191 F.Supp.2d 1071 (2001)

Honeywell v. San Francisco Housing Authority, 164 F.Supp.2d 1130 (2001)

Harrison v. Denny's Restaurant, Inc., 1997 WL 227963 (N.D. Cal.)

Kaiser Permanente Employees Pension Benefit Plan v. Bertozzi, 849 F.Supp. 692 (1994)

Barrett v. Rosenthal, 40 Cal.4th 33 (2006)

Alcaraz v. Vece, 14 Cal.4th 1149 (1997)

Donohue v. San Francisco Housing Authority, 281 Cal.Rptr. 446 (1991)