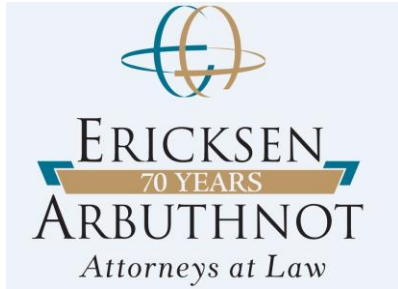


California



Sharon Hightower

San Jose office of Ericksen Arbuthnot Prevails in 6th District Court of Appeal Case

On April 24, 2020, the Sixth District Court of Appeal issued its decision in the matter of *Nguyen v. Ford*, Case No. HO46809 affirming the judgment of the trial court in favor of respondent Karen Ford in a legal malpractice lawsuit. The case was handled by Sharon L. Hightower, senior partner in the San Jose office of Ericksen Arbuthnot in California

Briefly, this was a lawsuit filed in Monterey County Superior Court in 2018 by Plaintiff Huyen Nguyen with causes of action for legal malpractice and breach of fiduciary duty. Defendant Karen Ford had been hired by Plaintiff to file a lawsuit against Plaintiff's former employer for wrongful termination. The lawsuit was filed in the District Court and the employer prevailed on a motion for summary judgment. In October 2014, Ford was then retained once more to appeal the judgment in the Ninth Circuit. When a disagreement arose over the fees and costs being generated, Ford filed a motion in the Ninth Circuit to withdraw as counsel, which the court granted on April 17, 2015. The Ninth Circuit then went on to affirm the judgment of the District Court. The state lawsuit filed in 2018 claimed that Ford was never granted leave to withdraw as trial counsel by order of the District Court as required by local Rule 11-5 and that she never advised Nguyen that she wanted to terminate the legal services under the retainer agreement applicable to the district court action.

Ford demurred to both causes of action in Monterey County Superior Court on the grounds that they were barred by the one year statute of limitation contained in California Code of Civil Procedure §340.6(a) and that the latest date for the filing of the state lawsuit was May 2016, one year from the order of the Ninth Circuit regarding her withdrawal from representation. Notwithstanding the claim of the Plaintiff by which she insisted that the failure to secure an order of withdrawal in the District Court provided continued representation and extended the statute of limitations, the trial court agreed with the arguments presented by the Defendant and sustained the demurrer without leave to amend. The appeal followed with the decision affirmed by the Sixth District Court of Appeals and awarded costs to respondent.