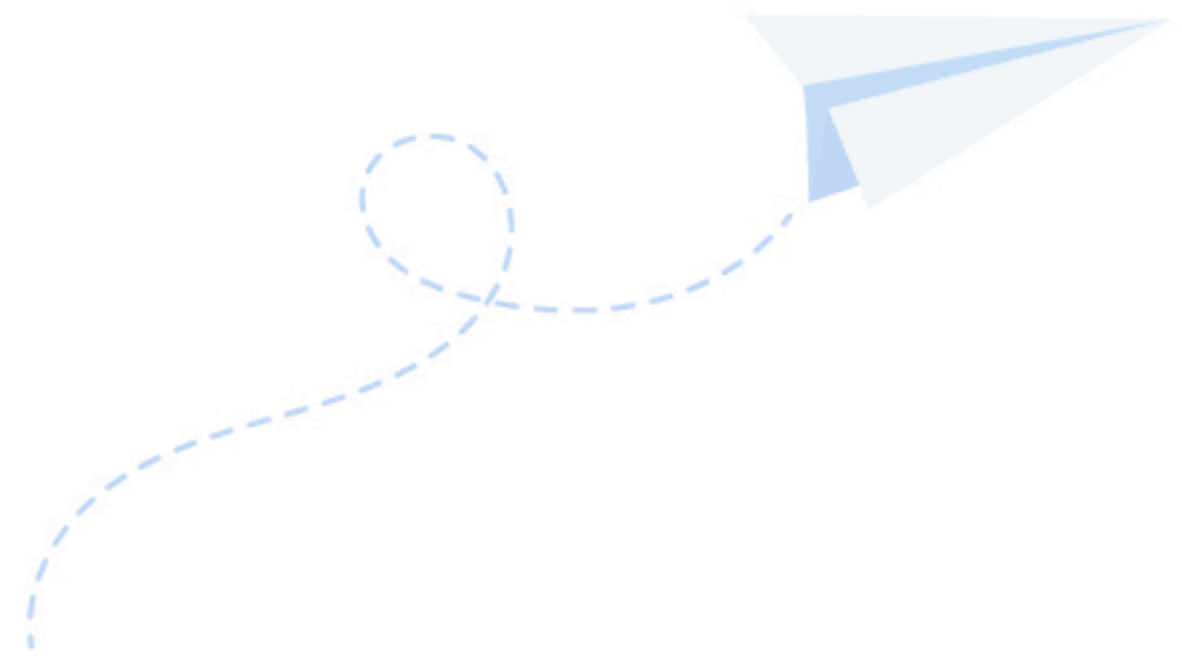


Case Briefs

Student's Name

Institution of Learning



Legal Brief 1

Name of case: Zack's Inc. v. City of Sausalito

Court: California Court of Appeals

Citation: Zack's Inc. v. City of Sausalito. (2013), Cal. App. 1st

The identity and arguments of the plaintiffs and defendant: Zack's Inc., Plaintiff and Appellant, v. City of Sausalito, Defendant and Respondent.

Facts: Zack's corporate charter had been suspended for more than five months starting from November 1, 2010 to April 12, 2011, the reason being given as their failure to pay taxes. The trial court awarded for the City, dismissing Zack's complaints for delay in prosecution as both the three year period and five year period stipulated by law had expired. Zack's, however, appealed to the California Court of Appeals citing exceptional circumstances in their situation.

Reason for lawsuit: The appellant believed that the time for bringing the matter to court was extended by some provisions of section 583.340, subdivision (c). They asserted that when the defendants' summary judgment and adjudication motions were being moved it was impossible for them to bring the action to trial and thus they deserved a time extension.

The lower court's decision: The lower court dismissed complaint, citing delay in prosecution.

Issue: Was there any applicable extension or exception warranting a time extension for Zack's prosecution case?

Decision: No

Reason: The court cited that it would be impractical to consider exceptions where they do not exist. The appellant made the mistake of assuming instead of being truly certain of the dates from commencement of the action against them. They also failed to show the court the causal connection that made it impossible to bring the case to trial. So basically, the appellant failed to qualify for the exceptional conditions set in section 583.340, subdivision (c) thus there was no legal justification for the delay in filing against the action of the City of Sausalito.

Legal Brief 2

Name of case: Natalini v. Import Motors, Inc.

Court: Court of Appeals of California.

Citation: Natalini v. Import Motors, Inc. (2013), Cal.App.4th

The identity of the plaintiffs and defendant: Gabriel Natalini, Plaintiff and Respondent and Import Motors Inc., Defendant and Appellant.

Facts: Plaintiff and respondent Gabriel Natalini (respondent), a car buyer, filed this action alleging individual and class claims against defendant and appellant Import Motors, Inc., a car dealer. The appellant then filed a petition to compel arbitration pursuant to a provision in the car sales contract, but the trial court denied the petition, concluding that the arbitration provision was unconscionable.

Reason for lawsuit: The plaintiff was led by the appellant to believe that the car and tires were sold as new when in fact they were already used. This led Gabriel Natalini, the respondent to assert class claims for violation of the CLRA, violation of the Rees-Levering Act, unfair business practices (Bus. & Prof. Code, 17200 et seq.), false or misleading advertisements (Bus. & Prof. Code, § 17500 et seq.), and declaratory relief.

The lower court's decision: The trial court had denied the defendant's petition, concluding that the arbitration provision was unconscionable.

Issue: Is the arbitration provision conscionable in these circumstances?

Decision: Negative. The Court of Appeal upheld the trial court's decision.

Reason: When purchasing the car, the buyer was expecting a new one and the dealer led him to believe that the car provided was new. In this circumstance, the arbitration provision is only applicable if the car had been new upon purchase but it was not new. Therefore, the provision was considered not conscionable.

Legal Brief 3

Name of case: Tucker v. Pacific Bell Mobile Services

Court: Court of Appeals of California

Citation: Tucker v. Pacific Bell Mobile Services. (2012). Cal. App. 7th

The identity of the plaintiffs and defendant: Diane Tucker et al., Plaintiffs and Appellants, v. Pacific Bell Mobile Services et al., Defendants and Respondents.

Facts: Plaintiffs alleged that the defendant wireless telephone companies made material misrepresentations to the consuming public as to the actual number of usable airtime minutes in advertised subscriber rate plans. Plaintiffs contend that the lower court erred in making a determination of class sufficiency at the pleading stage.

Reason for lawsuit: Plaintiffs alleged that Defendants' advertisements and other promotional materials misrepresented or inadequately disclosed this rounding up policy, in violation of the UCL and the false advertising law. The Appellants were against the court's use of the Knapp case as a basis for the ruling citing different circumstances. In brief, the complainant felt that the advertisement agency breached the rules that founded it.

The lower court's decision: The trial court had sustained the

defendants' demurrer to the class action allegations of the fifth amended complaint without leave to amend, relying in part on Knapp v. AT & T Wireless Services, Inc. (2011) 195 Cal.App.4th 932, 944 (Knapp), which involved somewhat similar allegations.

Issue: Is the Knapp case compatible to this class action? Is it right for the trial court to make a determination of class sufficiency at the pleading stage?

Decision: No, and no.

Reason: The court of appeals overturned the lower court's verdict as to dismissal of Plaintiffs' equitable claims under the unfair competition law (UCL; Bus. & Prof. Code, § 17200 et seq.)

Legal Brief 4

Name of case: Jodie Bullock v. Philip Morris USA, Inc.

Court: California Court of Appeals

Citation: Jodie Bullock v. Philip Morris USA, Inc. (2011). CA. App. 17th

The identity of the plaintiffs and defendant: Jodie Bullock (Plaintiff) and Respondent, and Philip Morris USA, Inc., as Defendant and Appellant.

Facts: Betty Bullock had been smoking cigarettes that were made by Philip Morris for close to 45 years. The complainant started smoking the defendant products when in 1956. In 2001, doctors discovered that she had lung cancer. Philip Morris USA, Inc. then filed an appeal against the trial court's judgment that required the company to pay Jodie punitive damages estimated at \$13.8 million.

Reason for lawsuit: Philip Morris contended contested the decision by the court and sort guidance from the court of appeal. Philip Morris believed that the award as ordered by the lower court was unconstitutional. Furthermore, Philip Morris contested the award of predisposition interest from the date the verdict was reached.

The lower court's decision: The lower court awarded the plaintiff 13.8 million dollars because it believed that Philip Morris products were

responsible for the plaintiff's health predicament.

Issue: Is Res Judicata applicable in this case against Phillip Morrison?

Decision: Negative

Reason: In upholding the trial court's decision, the court of appeals cited that, based on the *res judicata*, the plaintiff had a right to a compensation that was equivalent to the circumstances that the company's product had triggered. The plaintiff's undividable basic right had to be separated from the legal background on which the complainant was seeking reprieve. The plaintiff had the liberty to seek justice as espoused in the law.

Legal Brief 5

Name of case: People of the State of California v. Steven R. Spriggs

The court that decided it: The California Court of Appeals

Citation: People of the State of California v. Steven R. Spriggs. (2013). CA. App. 13th

The identity of the plaintiffs and defendant: People of the State of California, Plaintiff and Respondent, v. Steven R. Spriggs, Defendant and Appellant.

Facts: The appellant was driving a motor vehicle while using a wireless telephone. He was found guilty of violating the Vehicle code section 23123. However, in his appeal he stated that he was only using the map application function as he needed directions. While the vehicle code prohibits the use of wireless telephones while driving, it allows for use on hands-free mode. The Court of Appeals needed to determine whether using the map applications constituted a violation of the vehicle code.

The lower court's decision: Steven R. Spriggs was found guilty of violating the Vehicle Code section 23123

Issue: the question that lay before the court for interpretation was whether using map application function, while driving on a wireless handset violated Vehicle Code section 23123?

Decision: Yes

Reason: In holding the lower court's judgment, the appeal court reiterated that the Vehicle Code section 23123 only allowed the use of cell phone when it is configured and only used for hands free listening and talking while driving. The appellant on the other hand had been looking at the map on his phone and thus he had divided attention while driving. The use of map applications can not be considered as an exception in the use of wireless telephones while driving as they tend to take the driver's attention away from the road. Unlike listening or talking on hands free mode, looking at the map required the driver to look away from the road thus creating a possibility of causing an accident. Thus it would be imprudent of the court to categorize the use of map applications, or any other applications that required the driver to look away from the road as safe to use while driving.