

Korshak, Kracoff, Kong & Sugano, L.L.P.

A California-based law firm with a national practice in collective bargaining, labor management programs and litigation

Overview Of Our Firm

Korshak, Kracoff, Kong & Sugano is a boutique labor, employment and civil litigation firm rated (AV) in Martindale-Hubbell's Bar of Register of Preeminent Lawyers. We have a national practice and serve our clients through four offices, located in Los Angeles, Sacramento, Chicago and Miami. We allow our clients to use our services in the way that best complements their needs, i.e., in the role of general, labor, or litigation counsel; on a transactional basis; on issues relating to employment and labor matters; as a resource for internal human resource departments in the form of counseling, training, and litigation; or as associate counsel for other law firms who retain us to work with them on collective bargaining, internal investigations or other matters.

To maximize our productivity for clients, we focus our work largely on labor and litigation; we attempt to keep the same professionals working on a client's matters on a consistent basis to avoid unnecessary rotation and retraining of attorney. We also strive to ensure that the professionals working on each aspect of a client's case are at the appropriate billing rate for the complexity of the task involved. By developing long-term relationships with a select group of clients, our team of experienced attorneys and staff gains a thorough knowledge of our clients' operations and issues which allows us to understand the business and employment environment and to work efficiently and effectively on their behalf.

The areas of our practice are as follows:

Litigation

A substantial portion of our practice is litigation, including employment, wrongful termination, discrimination, unfair competition, unfair business practices and trade secrets, environmental law, construction, commercial, contract, tort, and insurance defense. Our attorneys have extensive jury and bench trial experience; collectively, our team has participated in over 500 jury trials. Because of that trial experience, our firm is able to litigate through trial any matter it undertakes and offers advice based on that ability.

We conduct a thorough investigation into the facts and the law at the beginning of a case that allows us to advise the client up front about the potential exposure in any case. With this knowledge, we work side by side with our clients to determine the best strategy to handle the matter in the most economical and effective matter. We have found that our willingness and ability to go to trial along with the depth of our preparedness gives us a competitive advantage in pursuing settlement or fully engaged in litigating and preparing a case for trial. Clement Kong is head of our litigation practice.

Collective Bargaining

Another portion of our practice is representing management in collective bargaining negotiations. We have a national practice representing individual employers and multi-employer groups in bargaining. We represent hotels, casinos, and office building owners; wine and spirits distributors; records distributors; airlines; food service companies; and sports and entertainment companies.

Our approach is to deal professionally and respectfully with unions whenever possible to achieve management's goals. We believe that confrontations and litigation with unions are often counterproductive to management's objectives and that building a long-term, professional, trust-based relationship with a union is quite often more effective in accomplishing management's goals. Therefore, in cities and industries where unions are strong, we believe that management generally obtains more cost-effective and flexible labor contracts, as well as higher morale and productivity, by working constructively with unions rather than by confrontational tactics. We believe engaging unions to reason with management to solve mutual problems facing the business is usually more productive than brinkmanship. In some cities and industries, of course, this approach is not viable and we advise clients to follow more traditional, confrontational approaches. Stuart Korshak, Rick Kracoff and Bill Glynn are in charge of our collective bargaining practice.

General Business

We are involved in general corporate and real estate counseling for our clients. We assist our clients in buying and selling businesses and real property, in negotiating distribution and supplier contracts, in administrative agency proceedings, self-audits, preventative procedures, and in assisting them in other general matters. Clients with or without internal counsel rely on us for this advice. We are able to provide strong advice to clients in this area based in part on our expertise in litigation and other matters which allow us to structure transactions that offer our clients the most protection available. Clement Kong is in charge of this practice area.

Employment Policy Development & Implementation

We have created and implemented for our clients new types of labor-management programs, including labor-management partnerships; employee-involvement programs; incentive, gain sharing, and variable pay programs; and joint-training programs. We are involved in advising companies on the development and implementation of proactive labor relations policies, including employment policies and goals; auditing and implementing compliant overtime classifications; drafting arbitration and proprietary information agreements; drafting employee handbooks and performance appraisal systems; implementing drug and alcohol testing programs; and drafting strike manuals, shop rules, and absenteeism and tardiness policies. Stuart Korshak and Rick Kracoff are in charge of this practice area.

EEOC and DFEH Compliance

Under both federal and state regulatory schemes, employers are subject to mandatory surveillance of hiring, promotion, and layoff practices as a means of preventing discrimination

against protected class members within the employee ranks. For many companies, employee statistics must be compiled periodically and submitted to the government for this purpose and an employer's failure to provide accurate and timely data can result in costly monetary consequences and expose the employer to heightened governmental scrutiny. The same data may be obtained and used by civil litigants who charge discrimination based on disparate impact. We assist our corporate clients in creating and maintaining employee statistics and complying with reporting obligations. We use nationally recognized statistical experts to assist us in this work. We audit and analyze the statistical data to minimize exposure to class-action discrimination claims and lawsuits in hiring, promotion, termination, wages, and employment benefits based on race, age, gender and other prohibited statutory categories. We also make appropriate recommendations regarding employment practices that may be viewed as discriminatory in nature. We also handle complaints or prosecution by either the Federal Equal Employment Opportunity Commission (EEOC) or applicable state fair employment and housing agencies. Clement Kong and Jamie L. Johnson co-chair this practice area.

Training

Training is an essential element of policy implementation and an important tool for lessening legal exposure in the employment law context. Training can also be a mechanism to let employees know what is required of them and to understand a culture of mutual respect. We have created training programs for our clients on a broad range of employment law issues. We have designed and delivered legal seminars to train our clients' employees and supervisors on sexual harassment; racial, age and other forms of discrimination; understanding union contracts and relationships; progressive discipline; and other employment policies. We have also worked with the client's trainers delivering the seminars to the client's workforce. Our attorneys and consultants have experience in needs assessment, workshop design, training delivery, and program evaluation, affording our clients professional tools to address their training needs in all areas of human resources.

Internal Investigations (relating to employee misconduct; harassment and/or discrimination)

With claims of sexual harassment, retaliation, and wrongful discharge increasing, it is important that companies be able to conduct timely and comprehensive investigations of employee charges of such misconduct. The law often requires a timely and fair investigation and remedial action to avoid liability for ratification of the underlying misconduct by a failure to act and the courts are sometimes willing to reject a plaintiff's liability claim for wrongful discharge if it can be shown that the employer had a reasonable belief that the misconduct had occurred after conducting a thorough and prompt investigation. We often act as outside investigator on behalf of corporate clients for such investigations. We also train companies' managers to do such investigations themselves and coach and advise them during actual investigations they conduct, including reviewing harassment investigation reports with them. We also provide similar services to clients that may involve allegations of employee misconduct (breach of company policies and practices) or suspected criminal activity. Clement Kong and Richard Kracoff are in charge of this practice area.

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Insurance

We have broad experience in insurance law, including the defense of insureds in complex actions and defense of insurance companies in first-party disputes. Our insurance clients have retained us for defense in a wide variety of tort claims, including personal injury, premises liability, wrongful death, products liability, disability discrimination, and employment claims. In addition to our defense practice, we assist carriers in addressing coverage issues, acting either as coverage counsel prior to denial or acceptance of a claim or as defense counsel in cases alleging bad faith and a breach of the obligation to defend or indemnify. We have pursued numerous declaratory relief actions on behalf of our insurance clients seeking to establish the insurance company's rights and obligations under various policies of insurance, including comprehensive general liability policies, personal injury policies, and umbrella policies. T.R. Sugano heads this practice area.

Biographies- Attorneys

Clement J. Kong

(Leads Litigation, General Business, Internal Investigations and EEOC and DFEH Compliance Areas, and Sacramento Office)

University of California, Berkeley 1972 (B.A., with distinction), University of California, Davis 1975 (J.D.), admitted to bar, 1976, California; 1976, U.S. District Court, Northern District of California; 1976, U.S. District Court, Eastern District of California; 2001, U.S. Supreme Court; Author: Report on Environmental Assessment of Pesticide Regulatory Programs, California Dept. of Food & Agriculture, September 1978, Chapter 6 Current Regulatory System and Chapter 7, Permits; State Bar of California (Member, Section on Labor and Employment Law), Sacramento Bar Association, American Bar Association, Asian Bar Association of the Greater Bay Area, Asian Bar Association of Sacramento; Capitol City Trial Lawyers Association; 1981-82, Board of Directors, Asian Bar Association of Sacramento; 1992-1993, Board of Director, Asian Community Center, Inc.; Selected by his peers for inclusion in the publication California Super Lawyers®; has been practicing since 1976 and has substantial litigation and corporate counseling experience; fluent in Cantonese.

Mr. Kong has obtained successful jury verdicts in many civil and criminal cases, including *Neary v. Regents of the University of California*, Alameda County Superior Court (\$7 million libel verdict) and *Kam Yu v. Borden, Inc.* (\$800,000 personal injury verdict). He has arbitrated and mediated multi-million dollar cases both as a plaintiff and defense lawyer. Since 1991, he has focused on employment defense litigation.

Stuart R. Korshak

(Leads Collective Bargaining and Policy Development Areas and Los Angeles Office)

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Yale 1969 (B.A., Magna Cum Laude), University of California, Davis 1975 (J.D.), admitted to bar, 1976, California; 1977, U.S. District Court, Central District of California; 1981, U.S. Supreme Court; 1984, U.S. District Court, Southern District of California; Author: Good Union Relationships Are Best, Workforce, February 2001; Labor-Management Partnership: San Francisco's Hotels and the Employees' Union Try a New Approach, Cornell Quarterly, April 2000; Negotiating Trust in the San Francisco Hotel Industry, California Management Review, Fall 1995, Arbitrating the Termination of a Union Activist, Personnel Journal, January 1982; Member: Los Angeles County and American Bar Associations (Member, Section on Labor Law); State Bar of California (Member, Section on Labor and Employment Law); has been practicing since 1976 and has substantial experience in all areas of labor and employment law.

Mr. Korshak is labor counsel to multi-employer groups and individual companies in various industries throughout the United States, including hotel and casino owners and management companies; wine and spirits distributors; sports, convention service, airport and food service companies; aviation companies, and others. He specializes in proactive labor management relations where he is generally successful in having his clients and their unions work cooperatively together to settle their contracts and to resolve their respective issues without litigation or confrontation. (See Law Firm Articles and Speeches and Media Reports on this website.)

Richard J. Kracoff

(Leads Policy Development, Internal Investigation and Collective Bargaining Practices)

Dartmouth 1981 (A.B., magna cum laude), Stanford 1984 (J.D.), Phi Beta Kappa; admitted to bar, 1984, California; 1985, U.S. District Court, Central and Southern Districts of California; 1988, U.S. District Court, Eastern District of California; 1990, United States Court of Appeals, Ninth Circuit; 1992, U.S. District Court, Northern District of California; Member: Century City, Los Angeles County and American Bar Associations (Member, Section on Labor Law); State Bar of California (Member, Section on Labor and Employment Law); has practiced in the labor area since 1984 with experience in all areas of labor and employment law.

Takashi R. ("T.R.") Sugano

(Leads Insurance Defense Practice)

University of California, Davis 1967 (B.A.), University of California, Davis 1968 (M.A.), University of California, Berkeley 1972 (J.D.); admitted to bar, 1972, California; 1972, U.S. District Court, Eastern District of California; Member: Sacramento Bar Association, Asian Bar Association of Sacramento; State Bar of California; 1986-87, Board of Directors, Asian Bar Association of Sacramento; 1986-91, Pro Tem Referee for Sacramento County Juvenile Court; 1988-91, Pro Tem Settlement Conference judge for Sacramento County Superior Court, CEB Lecturer: "Fundamentals of Civil Litigation Before Trial"; elected into the American Board of Trial Advocates (ABOTA); has been in practice since 1972 and has substantial litigation experience.

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Mr. Sugano's trial experience includes extensive civil litigation in various areas, including employment and insurance defense.

William C. Glynn

(Heads Chicago Office and Co-Chairs Collective Bargaining Practice)

Illinois Institute of Technology (B.S. 1971); Northwestern University Graduate School of Management (M.M. 1976); Northwestern University School of Law (J.D., cum laude 1985); admitted to practice in the State of Illinois 1985 and in the District of Columbia 1986; United States District Court for the Central District of Illinois 1996; Seventh Circuit Court of Appeals 1986; Fifth Circuit Court of Appeals 1994; United States Supreme Court 1989; Member of the American Association, Illinois State Bar Association, Chicago Bar Association; Bar Association of the Fifth Federal Circuit and the District of Columbia Bar Association; has been in practice since 1985 and has substantial experience in labor and employment law and commercial litigation.

In addition to litigation defense, Mr. Glynn's employment law practice includes counseling and training for managers and supervisors. He has delivered workshops and interactive seminars on anti-harassment policies, investigation techniques, and effective strategies for supervisors and leadership, diversity training, Fair Labor Standards Act Training, and related topics.

Keith R. Thorell

University of Southern California, 1995 (B.A., B.A. magna cum laude), Harvard Law School, 1998 (J.D. cum laude), admitted to bar, 1998, California; United States Court of Appeals, Ninth Circuit; United States District Court, Central District of California; has been in practice since 1998 with substantial litigation and appellate experience. Mr. Thorell has significant experience in all facets of employment law including litigating discrimination actions, litigating wage and hour lawsuits, and providing employment-related advice to clients.

Lauren F. Hager

Emory University, 2004 (B.B.A.), University of Miami School of Law, 2007 (J.D.); admitted to bar, Florida (2007), California (2008); U.S. District Court, Eastern District of California; State Bar of California (Member, Section on Labor and Employment Law). Ms. Hager has experience in sexual harassment training and assists on a wide variety of employment and litigation matters.

Lyndsay Cavanagh

DePaul University, 2000 (B.A. cum laude); DePaul University College of Law, 2009 (J.D.), admitted to bar, 2009, Illinois; Member of the Illinois State Bar Association, Chicago Bar Association. Ms. Cavanagh has experience in all areas of labor and employment law, including collective bargaining, employment litigation defense and harassment policy training for supervisors and non-managerial employees.

Biographies- Staff Professionals

Tomoko Sato

Translator & Legal Assistant, Gakushuin Junior College, Tokyo, Japan (A.A.), University of California, Davis 1985 (B.A.), fluent in Japanese.

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