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Top Verdicts of 2014

The Largest and most significant verdicts and appellate reversals handed down in California in 2014

TOP DEFENSE RESULTS

U.S. Securities and Exchange Commission v. Moshayedi

case INFO

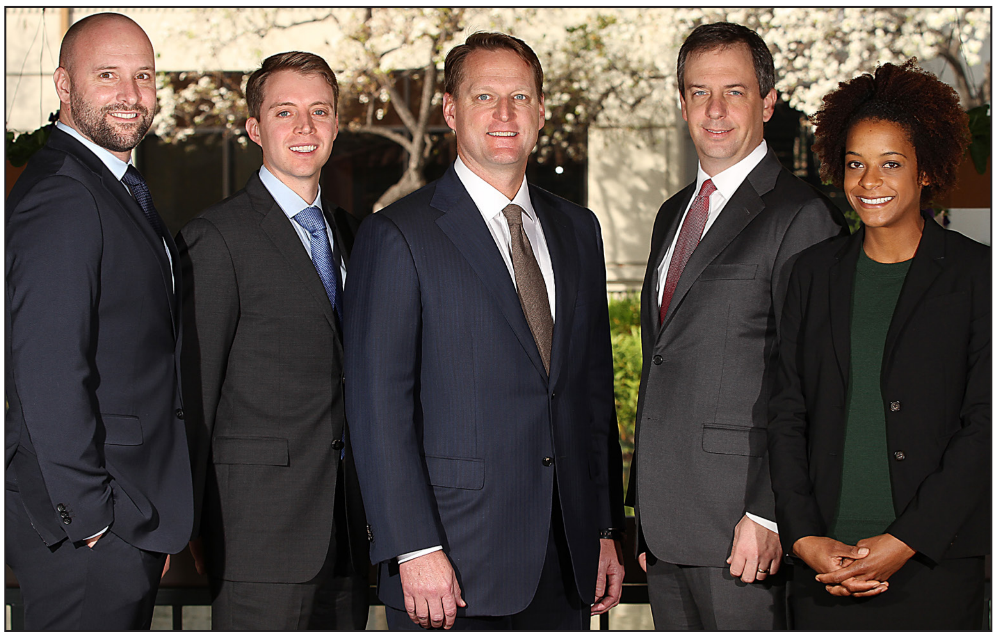
Insider trading

Central District of California

U.S. District Judge James V. Selna

Defense attorneys: Latham & Watkins LLP, Patrick E. Gibbs, Matthew Rawlinson, Sean M. Berkowitz, Colleen C. Smith, Adam Regoli, Whitney B. Weber, Reuben J. Stob, Amanda Betsch and Ashley J. Hodge; Paul Hastings LLP, Thomas A. Zaccaro, Thomas P. O'Brien, Howard M. Privette, D. Scott Carlton, Eleanor K. Mercado, Peter T. Brejcha, Beth Mueller, Janice J. Lee, Bridget A. Gordon and Ryan A. Walsh

Plaintiff's attorneys: U.S. Securities and Exchange Commission, John W. Berry, Donald W. Searles, Gary Y. Leung



Sam Attal / Special to the Daily Journal

FROM LEFT, REUBEN J. STOB, ADAM REGOLI, PATRICK E. GIBBS, MATTHEW RAWLINSON, AND ASHLEY J. HODGE

Attorneys with Latham & Watkins LLP and Paul Hastings LLP scored a major victory last June when they defeated insider trading allegations by the U.S. Securities and Exchange Commission against the founder of a Santa Ana-based technology company.

Manouchehr Moshayedi, founder and CEO of sTec Inc., avoided governmental penalties with the aid of his team of attorneys. *U.S. Securities and Exchange Commission v. Moshayedi*, CV12-1179 (C.D. Cal., filed July 19, 2012).

The SEC accused him of selling over $130 million in shares while failing to disclose details of a $120 million supply agreement.

The company forecast growth following a 2009 deal with EMC Corp., and Moshayedi and members of his family sold stock in a secondary offering.

The complaint alleged Moshayedi learned EMC would scale back flash memory drive purchases from sTec before the secondary offering, and that the defendant failed to disclose "material, non-public information." EMC's reduced need for sTec products was disclosed later, leading to a drop in the company's stock price.

Defense attorneys argued that EMC's early forecasts were often less than the company's ultimate quarterly demand, and could not be used to argue that Moshayedi failed to make proper disclosures about sTec's sales.

"I would say to base an insider trading claim on a forecast early on in a quarter from a customer is a fairly adventurous theory for the SEC to brave," said lead counsel Patrick E. Gibbs, a partner at Latham & Watkins.

By trial, he added the forecast argument was in "pretty bad shape."

"The witnesses were some of the bankers involved in the offering and their testimony and evidence was the risks had been adequately disclosed in the offering documents, so I think that supported our argument that the information Mr. Moshayedi supposedly knew was shared with the market and the market knew about the risks," said co-counsel Thomas A. Zaccaro, a partner at Paul Hastings.

During the litigation, Moshayedi stepped down as CEO and sold sTec to Western Digital Corp. in 2013.

— Kibkabe Araya

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