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Victory Against Labor Commissioner, Marron Lawyers Compels Five Wage and Hour Plaintiffs to Arbitration

Marron Lawyers secured its latest win in a series of victories in arbitration enforcement cases, bucking the trend in California Appellate Courts, which show some of the most intense hostility to enforcement of arbitration in the nation. In 2016, the Superior Court for the County of San Mateo ordered five separate wage-and-hour claims against a Marron Lawyers' client, a major national franchisor, to arbitration. These claims alleged that the Firm's client was a "joint employer" of individuals who worked for, and in some cases were co-owners of, a franchise of the client.

These claims were originally filed with the California Labor Commissioner's office. Such claims are particularly dangerous because statistics show that the Labor Commissioner rules in favor of the worker well over 80% of the time. While businesses have an opportunity to appeal to the local Superior Court, the Labor Code creates a fee-shifting scheme where if an appeal of an adverse Labor Commissioner decision results in an award

of even \$1 to the claimant, the appealing business still has to pay all attorneys' fees for the worker. Accordingly, most businesses choose to settle at great cost rather than face an adverse Labor Commissioner ruling and an award of attorneys' fees.

In these 5 cases, the Firm implemented a strategy to take the matters out of the hands of the Labor Commissioner and send them to arbitration, where a neutral arbitrator is far more likely to make a decision based on the law and the facts of the case, rather than political considerations and results-driven jurisprudence.

This matter posed unique challenges as one of the claimants was never a franchisee of the Firm's client and had never signed an arbitration agreement. Three other claimants were co-owners of the franchise but had also never personally signed any arbitration agreement. Arbitration arises out of contract and generally requires all parties to have consented to arbitrate their disputes. Nevertheless, Marron Lawyers crafted innovative

arguments that held the workers to the arbitration agreement the franchisee. The Court fully accepted the Firm's arguments in ordering all five cases to arbitration.

This was the third major set of cases where the Firm succeeded in compelling arbitration against wage and hour claimants, despite vigorous opposition by plaintiffs' lawyers and state agencies. This victory underscores the importance for businesses facing both individual and class action wage and hour claims to retain counsel with the kind of deep experience Marron Lawyers has in aggressively defending against such claims.

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