

FWC Successfully Defends Doctor Sued by Donald Sterling in the L.A. Clippers Case.

In another high profile lawsuit, Fraser, Watson & Croutch, LLP obtained a tremendous outcome for The Regents of the University of California and one of its physicians, in what was perhaps the highest stakes medical negligence case in California history.

On March 22, 2016, the United States District Court for the Central District of California granted the motion for dismissal (FRCP 12) prepared and filed by Fraser, Watson & Croutch, LLP's Law & Motion/Appellate Partner Daniel K. Dik, on behalf of UCLA Medical Center physician Dr. J. Edward Spar, in the Federal case brought by billionaire real estate mogul, Donald Sterling, arising out of the sale of the professional basketball team he owned, the Los Angeles Clippers.

Sterling sued after he was removed from power, and the Clippers were sold for \$2 billion.

In *Sterling v. NBA, et al.*, Mr. Sterling sued the NBA, its commissioner, his own wife, and two physicians, alleging among other things that his basketball team had been wrongfully wrested from him, and sold by his wife to Steve Balmer (of Microsoft fame) for \$2 billion.

The team, along with other property, was held in a family trust, with Mr. & Mrs. Sterling as trustees. The trust documents mandated that upon request of another trustee, a trustee had a duty to be examined medically, and if two physicians determined that the trustee was no longer fit to serve, that trustee no longer exercised any trustee powers. After Mr. Sterling's unflattering comments about African Americans became public on TMZ and a scandal that pro sports could not allow to stand unanswered, the NBA fined Sterling, banned him from professional basketball, and instituted proceedings to take the Clippers away from him.

Pursuant to the trust document, Mr. Sterling was examined by Dr. Platzer and by our client Dr. Spar, each of whom independently concluded that Mr. Sterling was no longer medically competent to serve as trustee. This left Mrs. Sterling as sole trustee; she obtained three bids for the team, and sold it for \$2 billion to the highest bidder, Steve Balmer.

Sterling v. NBA had been preceded by, and ran along a parallel track with, *Sterling v. Sterling*, a Los Angeles Probate Court action, in which Mrs. Sterling had sought approval of the sale of the Clippers, and wind up of the family trust. That matter was bitterly contested, over a number of days of evidentiary hearings, resulting in a detailed decision in favor of Mrs. Sterling and her actions. This was affirmed by the Court of Appeal, in *Sterling v. Sterling* (2nd Dist. Div. 8, 2015) 242 Cal.App.4th 185.

Defense Counsel gets busy, and gives the Court plenty to think about.

Along with Munger, Tolles & Olsen, FWC was engaged by The Regents of the University of California to cooperatively defend Dr. Spar against claims of negligence, breach of patient-physician privacy, violations of HIPAA, and the claim that the defendants engaged in some grand conspiracy to take the Clippers away from Mr. Sterling. FWC prepared and filed a motion to dismiss under FRCP Rule 12, upon multiple grounds. Munger, Tolles & Olsen simultaneously filed an Anti-SLAPP motion to strike. The matter was fully briefed by the

middle of July 2015, and was taken under submission by the District Court, the Honorable Fernando Olguin Judge presiding. While the matter was under submission, Second District's affirmation of the Probate Court's ruling was published in November 2015. FWC promptly filed a copy of that decision with the Federal District Court, to consider while ruminating upon the motions to dismiss it had under consideration.

The Federal District Court grants our motion to dismiss Sterling's case.

FWC's motion to dismiss was granted, and the Court entered judgment in favor of all defendants the same day. The reasons given by His Honor in granting dismissal to all defendants, including Dr. Spar, tracked points developed by FWC, and included: Mr. Sterling's wavier of prospective claims under the trust document, the factual and legal propriety of Dr. Spar's and Dr. Platzer's actions thereunder, the good price obtained by Mrs. Sterling for the Clippers resulting in the Court questioning whether Mr. Sterling had even been damaged, a detailed recitation of the findings of the Probate Court, the lack of any violation of Mr. Sterling's constitutional rights, the lack of any colorable personal civil action under HIPAA, and issues of comity and judicial restraint as between the Federal and State courts given that the controversy had already been litigated in the California court system before coming to Federal court.

About Us.

Daniel K. Dik, Stephen C. Fraser and John Aitelli were responsible for this victorious outcome on behalf of The Regents of the University of California and Dr. Spar. Fraser, Watson & Croutch, LLP is a full service litigation firm, practicing in the California and Federal court systems, including representing our clients in the California Court of Appeal, California Supreme Court, the United States Court of Appeal for the Ninth Circuit, and the United States Supreme Court. The Firm has offices in Glendale and Orange, California. We would be pleased to discuss with you how the Firm might be of service to you.