Emil W. Herich

Counsel



1801 Century Park East Suite 2300, Los Angeles, CA USA 90067
t 310.777.3730
eherich@ktslaw.com

Services

Catastrophic Injury

Class Action Defense

Complex Commercial Litigation

Litigation

Product Liability

Emil Herich has been litigating cases predominantly in California state, federal and bankruptcy courts as well as California appellate courts for over 25 years. He is substantially familiar with the local bench and bar. Emil has tried dozens of cases as both plaintiff's and defense counsel and has been counsel of record for over 20 appellate matters.

Among the matters that Emil has successfully litigated are a complex commercial tort and contract case on behalf of a California service station operator against a major oil company resulting in a multi-million dollar jury verdict in favor of the client that was affirmed on appeal; defense of a law partnership and its members against claims by a former partner alleging breach of contract, breach of fiduciary duty and defamation; prosecution of an idea submission theft case against a major oil company resulting in a seven figure settlement; defense of a class action case brought against a toy manufacturer resulting in denial of class certification; prosecution of a real estate fraud case resulting in cancellation of a grant deed and a seven figure jury verdict in favor of the client; and prosecution of a claim against a

title company for improperly issued grant deeds resulting in a seven figure settlement.

Prior to joining Kilpatrick, Emil was of counsel at Keats McFarland & Wilson LLP in Beverly Hills, California, a boutique intellectual property law firm. Emil provided litigation and trial services to the firm as well as being engaged on commercial business litigation matters for his own clients. Emil was previously a founding partner at Chadwick & Herich, LLP where he was also engaged in business litigation. Formerly, Emil was a partner with a national law firm in its commercial litigation practice group.

Experience

Represented the plaintiff in an idea submission case against Shell Oil Company concerning an online advertising template designed to permit service station owners to develop individualized pre-approved advertising campaigns and promotions. The case was vigorously litigated, first in the Los Angeles Superior Court, and then in binding arbitration. We took and defended over 10 depositions in Houston, Wichita and Los Angeles. After the arbitrator denied defendant's motion for summary judgment, the case settled.

Represented Yahoo! in competing national class actions, one filed in state court in Arkansas and a second in the Central District of California, which alleged that Yahoo! breached its agreement with advertisers by charging for "click fraud" which constituted false advertising and unfair competition. We supervised the collection and review of years of Yahoo!'s click data to establish that Yahoo!'s practices were industry leading. We obtained dismissal of the contract claims, and after a strong class certification opposition, we were able to obtain a very favorable settlement for Yahoo! in large part because of our factual showing regarding the lack of damages to the class. The settlement was for approximately 5 percent of the amount that Yahoo!'s competitors paid in settlement.

Defended Hasbro in a putative class action brought on behalf of all California purchasers of a Tinkertoy set. The Plaintiff alleged that Hasbro engaged in false advertising based on the sale of Tinkertoy sets that included certain connector pieces in the images of structures featured on the packaging that were not included in the set. Plaintiff's proposed class included customers who purchased the set from authorized retailers as well as second-hand sellers of the set. We successfully opposed certification of the class.

Represented Yahoo! in a national class action case for false advertising, breach of contract and unfair competition. The plaintiffs sought to certify a class of Yahoo! Pay-Per-Click advertisers asserting claims that they were paying for low quality traffic. We worked with a team of contract lawyers and eDiscovery experts to collect and review tens of gigabytes of data regarding Yahoo!'s advertising network. We were able to settle the case on favorable terms after filing an opposition to the class certification motion.

Represented Prepayd Wireless in connection with a dispute arising out of its commercial lease. Prepayd, the tenant with respect to the lease at issue, was sued by its landlord for breach of lease and rent due and

owing after Prepayd surrendered possession of the premises based on the plaintiff-landlord's interference with Prepayd's right to quiet enjoyment. The landlord filed a demurrer seeking to dismiss Prepayd's entire cross-complaint for constructive eviction and related claims. At the hearing, the judge overruled the landlord's demurrer in its entirety, citing the arguments in our opposition brief and noting on the record that Prepayd successfully pled a claim for constructive eviction which, if proved at trial, would cut off Prepayd's duty to pay rent starting on the date Prepayd surrendered possession of the premises. Settlement discussions are ongoing.

Education

University of California, Los Angeles School of Law J.D. (1984)

University of California, Berkeley B.A. (1979) *Phi Beta Kappa* with *highest honors/great distinction*

Admissions

California (1984)

Court Admissions

U.S. Court of Appeals for the Ninth Circuit

U.S. District Court for the Central District of California

U.S. District Court for the Eastern District of California

U.S. District Court for the Northern District of California

U.S. District Court for the Southern District of California

Professional & Community Activities

Emil is active in the local community, including the Burbank Rancho Equestrian community, and provides pro bono representation to local equestrian services providers.

Insights

DECEMBER 28, 2016 **NEWS**

KT is...Trending, December 10-23, 2016

MARCH 27, 2015 **NEWS**

Kilpatrick Townsend's Media Report March 20-26, 2015

MARCH 22, 2015 **NEWS**

Kilpatrick Townsend Attorneys Noted as Counsel to the Agua Caliente Band of Cahuilla Indians by Law360 re: "Calif. Tribe Scores Win In Coachella Valley Water Rights Row"

JANUARY 23, 2015 **NEWS**

Kilpatrick Townsend's Media Report January 16-22, 2015
