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Kevin S. Rosen

GIBSON, DUNN &
CRUTCHER LLP

LOS ANGELES

Kevin S. Rosen developed his professional responsibility practice as a young associate at Gibson, Dunn & Crutcher LLP — he joined the firm in 1988 — by working with a senior partner on the defense of a major law firm.

“I liked it quite a bit, and it became a focus of my practice,” Rosen said. Now, as a senior partner quarterbacking defenses for firms around the U.S., the successes have kept on coming.

Rosen was reluctant to mention firm names, but a database check showed that recent clients have included Holland & Knight LLP and O’Melveny & Myers LLP.

In a Daily Journal Top Verdict of 2018, Rosen and colleagues persuaded a state appellate panel to reverse a \$34.5 million verdict against Holland & Knight for alleged malpractice in connection with a series of 10 real estate transactions. *Sabadia v. Holland & Knight LLP*, B242773 (2d DCA, filed July 20, 2012).

That big win led the client to retain Rosen to handle a new trio of consolidated cases in Florida over allegations by former clients of malpractice in Holland & Knight’s defense of trade and business secrets claims. Those cases, currently in their early stages, are valued at around \$400 million. *St. Louis v. Holland & Knight LLP*, 21-CA-008456 (13 Jud. Cir., Fla., filed Oct. 20, 2021).

Rosen obtained a defense win in arbitration and on summary judgment for O’Melveny & Myers and two of the firm’s attorneys after the bankruptcy trustee for a former client, Aletheia Research and Management Inc., sued them, alleging professional negligence and breach of fiduciary duty plus bankruptcy law claims over the firm’s fees and costs. *Golden v. O’Melveny & Myers LLP et al.*, 2:14-cv-08725 (C.D. Cal., filed Nov. 10, 2014).

Rosen prevailed at arbitration on the negligence and breach of fiduciary duty claims, then successfully moved in district court for summary judgment on the bankruptcy law claims, contending that the arbitration result collaterally estopped the bankruptcy law proceeding.

“We explained how the firm acted not only professionally but went above and beyond to help the client, and the arbitrator agreed,” Rosen said. “It was a very satisfying experience and a good result for the client.”

He added that such suits are proliferating. “Firms are being sued more and more and for much higher dollar figures, sometimes in the high nine figures, to the point where a firm’s very existence is at stake,” he said.

“Those suits have to be defended accordingly with a deftly and carefully crafted strategy. The worst mistake is to take a formulaic approach.”

— JOHN ROEMER