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Keys to Winning Employment Suits: Time, Expertise, Tenacity and Creativity

When whistleblower Robert Zendejas lost his job with a bus line, the odds were against him. As in most states, Texas laws allow employers to fire “at will,” meaning employees such as Zendejas can be fired without cause in almost every situation. With nothing to claim but a verbal agreement by a manager not to fire him, the suit Zendejas filed seemed impossible.

“The case may have seemed impossible, but it was certainly not without merit,” explains G. Scott Fiddler who is one of only about 25 Texas attorneys board certified in both Labor and Employment Law and in Civil Trial Law by the Texas Board of Legal Specialization. “Employees need the full protection of the law, and I was particularly passionate about the case because it certainly appeared Mr. Zendejas was fired in retaliation for ensuring the company complied with federal safety regulations.”

Fiddler found a little-known exception to the employment-at-will doctrine and developed a creative claim. Zendejas obtained a favorable verdict from a Houston, Texas jury.

The Luxury of Specialization

Finding innovative approaches in employment law is a luxury Fiddler enjoys because he practices *exclusively* in the field. “New case law and legislation make it challenging to stay abreast of changes in employment law, especially if it’s one of several fields of law you practice,” explains Fiddler...and he should know. In a recent landmark case, *In re Poly-America, L.P.*, Fiddler succeeded in persuading the Texas Supreme Court to find provisions in an employment arbitration agreement unconscionable, a first in Texas law. Routinely upheld in the courts, forced arbitration clauses in employment contracts deprive individuals of their right to go to court if they are harmed by a company. The *In re Poly-America* case paves the way for other individuals to avoid oppressive and unfair arbitration agreements imposed upon them by their employers.

The case took nearly six years. Fiddler can and does accept these kinds of cases because he narrowly defines his practice, limiting the number and types of cases and devoting as much time as each deserves. “A law practice cannot be run like an assembly line if you want to achieve the best possible results for clients,” he says. “Most of my clients are local individuals who are going up against large corporations. They need the attention that general practitioners and larger multidisciplinary law firms cannot afford to give them.”



Scott Fiddler has been selected by *Law & Politics* magazine as a Texas “Super Lawyer” (2007-08) and by *H-Texas Magazine* as one of “Houston’s Top Lawyers” (2008-09).

Superior Litigation

Fiddler’s approach has made him one of the most respected attorneys in his field, with an enviable track record of significant wins to his credit, especially in the areas of wrongful termination, sexual harassment, age discrimination and collective overtime cases. In 2008, he won one of the largest jury awards in an employment retaliation case in Texas in the last decade.¹ This was another retaliation case in which a man had been passed over for promotions and finally terminated after he had complained about race discrimination. The case is currently on appeal.

Recognized for his willingness and ability to try a case to a jury maximizes settlements outside the courtroom. “Too many attorneys have a reputation for always settling cases before trial,” he says. “We believe our track record in the courtroom and our reputation for trying cases benefit all our clients.”

¹ Based on a search of the Verdict Search database of reported cases in Texas since 1996.

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