

Employment Group Of The Year: Sanford Heisler

By **Kevin Penton**

Law360, New York (January 25, 2017, 2:27 PM EST) -- Sanford Heisler LLP in 2016 secured more than \$3 million under a Title IX suit for the retaliatory termination of a female college basketball coach and struck a \$19.5 million settlement with Qualcomm Technologies Inc. over discrimination allegations concerning thousands of female employees, securing it a spot among Law360's Practice Groups of the Year.

The firm, which specializes in labor and employment law, led the way in garnering the \$3.4 million verdict from a California jury for Mary Elizabeth Burns, the former coach of the San Diego State University women's basketball team, and the settlement for more than 3,300 current and former Qualcomm employees who alleged they were not paid or promoted on the same scale as men.

"I'm really, really proud of this firm's mission in fighting against discrimination in the workplace," said Kate Muetting, a partner in Sanford Heisler's Washington, D.C., office and a member of Law360's 2016 Employment editorial advisory board.

Burns alleged that she was wrongfully terminated from her coaching position at San Diego State after she protested the university's inferior treatment of its women's basketball team, compared with the men's team. The university maintained that Burns' removal was spurred by an incident in which she struck a subordinate member of her coaching staff during a 2013 game.

Burns claimed that San Diego State stiffed the women's basketball team of the publicity it reserved for the men's team, used "leftovers" from the men's games for things such as fan giveaways for women's games and set up an online ticket ordering system for the women's team only after she complained, according to court documents.

David Sanford, the firm's chairman and founder, said the jury's verdict is considered amongst the largest garnered under Title IX, a set of federal regulations that bans sex-based discrimination in any federally funded education activity or program.

"San Diego State University fought very hard over a couple of years in defense, but we ultimately had a very successful result for our client, so we're very happy about that," said Sanford, who worked on the case.



The settlement in the Qualcomm case received preliminary approval in December. It would award an average of \$3,953 each to class members and would call for the technology giant to change its corporate practices, including adding a compliance officer and conducting a regular statistical analysis of its pay practices to keep its pay and promotion equal among similarly situated men and women, according to court documents.

A group of seven current and former employees at Qualcomm in science, technology, engineering and math-related roles accused the company of systemic gender discrimination stemming from its promotion policies, such as by often hinging promotions on managers — many of whom were men — rather than by posting open positions. They also claimed that women caring for children were discriminated against, as the company discouraged taking leave and allegedly rewarded workers who stayed late at the office, regardless of productivity.

“The fact that the parties were able to reach such a favorable settlement without years of risky and costly litigation is literally unparalleled,” the workers said in the July settlement motion.

In August, Sanford Heisler filed two Employee Retirement Income Security Act putative class actions — a \$100 million filing against Columbia University and a \$150 million filing against Morgan Stanley — alleging that the entities mismanaged the retirement accounts offered to employees.

Morgan Stanley faces allegations that it invested employees' retirement savings into funds that consistently underperformed, all while charging comparably excessive fees for some of its own services, and Columbia faces allegations that it breached its fiduciary duty under ERISA by offering poorly performing and expensive funds.

“These are people’s retirements,” said Charles Field, an attorney working on both cases. “They’re getting shortchanged because their employers are not doing the right thing.”

In the coming months, Sanford Heisler plans to open a new office in Tennessee and to file new putative class actions related to several employment discrimination matters, all while keeping a close eye on how employment law will be impacted by the Trump administration, Sanford said.

If President Donald Trump is truly seeking to bring change to the system, he will appoint judges who are open to changes sought by employees and consumers who have legitimate concerns against companies engaged in illegal behavior, Sanford said.

“All we want is a thoughtful, independent, objective judge who will listen to our case and not make radical decisions about dismissing claims based on ideology,” Sanford said. “Instead, we hope to have judges who have open minds and who are willing to allow a case to proceed to full discovery and ultimately to a trial on the merits before a jury.”

--Additional reporting by Suevon Lee and Kat Greene. Editing by Stephen Berg.