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TOP TRADE SECRETS Lawyers

2023



DYLAN W. WISEMAN

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Sacramento
& San Francisco

Dylan W. Wiseman is a shareholder at Buchalter, where he specializes in the field of prosecuting and defending trade secrets, employee mobility and unfair competition disputes.

Over the years, he has successfully tried numerous cases to verdict. His experience in jury trials led him to become the sole author of the chapter on the CACI 4400 series jury instructions, featured in the book "Trade Secret Litigation and Protection."

In one of his major cases, Wiseman successfully defended an aerospace seals engineering firm against allegations of trade secret misappropriation. His strategic approach, which included computer forensics to reveal the extent of information taken, led to a favorable settlement in December 2022. *Saint-Gobain Performance Plastics Corporation v. Tuan La and Polymer Concepts Technologies, Inc.* EC068518 (L.A. Sup. Ct., filed May 9, 2018).

"Once the plaintiff finally cleared that hurdle, we then argued that the compilation of files did not qualify as trade secrets because they were not novel or unique," Wiseman said. "We argued the files taken by the former employee reflected older, outdated technologies which were widely known throughout the industry."

Another notable case in which Wiseman is involved is *Phillips North America LLC v. Advanced Imaging Services, Inc.* Here, he is defending against a multinational conglomerate's motion for a preliminary injunction related to trade secrets in the MRI and CT scanning field. This case also involves antitrust claims and raises novel issues tied to the "right to repair" executive order from the Biden Administration, with a jury trial set for the summer of 2023.

Wiseman's career has not been without its challenges. He has recognized the need for civil pattern jury instructions

in federal trade secrets disputes, and in response, Buchalter's trade secrets and employee mobility practice group published the first set of pattern jury instructions in 2021, a valuable resource for practitioners in the field. Additionally, he is contributing to the development of pattern jury instructions for the Defend Trade Secrets Act (DTSA) through the Sedona Conference, which should be published in the coming years. Wiseman has also written on the challenges presented by California's CACI 4400 series of jury instructions, offering insight into their complexities in the California Lawyers Association's treatise.

Wiseman predicts trends in the trade secrets field, noting a potential shift away from federal actions under the DTSA and a preference for California's Superior Courts due to their more employer-friendly definitions of "trade secrets." He also anticipates an increase in trade secret litigation with the enactment of Business & Professions Code section 16600.5.

"California has never permitted covenants not to compete, and with the new civil remedies provisions added this term by the Legislature enabling plaintiffs to commence a civil action to invalidate covenants not to compete, employers will continue to rely heavily on confidentiality agreements to protect trade secret information," Wiseman said.