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Development Director wins appeal against City of Montebello

March 14, 2016: The California Court of Appeal ruled today that ex- City of Montebello Economic Development Director, Jose Bazua, will get his day in Court. Mr. Bazua won his appeal of a Los Angeles Superior Court ruling that he failed to exhaust the administrative and judicial remedies available, before he filed suit alleging that the city retaliated against him for whistleblowing and defamed him, as well.

In reversing the Superior Court's decision, the California Court of Appeal, Second Appellate District, Division Seven, stated that Montebello's post-termination appeal procedure was inadequate because it did not provide a clearly defined procedure for resolving disputes. The Court also ruled that Superior Court Judge Michelle R. Rosenblatt was mistaken in granting Montebello's motion for summary judgment in dismissing Bazua's defamation action. The case now goes back to the trial court for a jury trial based on the merits of Bazua's claims.

Bazua is represented by J. Bernard Alexander and Tracy L. Fehr of Alexander Krakow + Glick LLP, a Santa Monica firm that exclusively represents employees. He was fired by the City of Montebello after he complained about the improper disbursement of Department of Housing and Urban Development (HUD) funds by the City, in 2008. He was overruled by his superiors. Two years later, in 2010 when HUD's Office of Inspector General conducted an audit, Montebello accused Bazua of creating the fraudulent documents associated with the release of funds, and eventually terminated Bazua in 2011.

Bazua objected to the post-termination administrative reviews and hearings because he claimed that Montebello had not established appropriate administrative procedures in advance of his case, and that the procedures created by Montebello after the fact created inherent conflicts of interest, including the involvement of Montebello counsel who prepared the documentation associated with the HUD funds transfer.

Alexander said, "By creating an administrative procedure after the fact, the City of Montebello subjected Mr. Bazua to a patently unfair administrative process. An employee is entitled to know in advance what procedures will be in place when he tries to obtain justice. Particularly in a whistleblower case such as this, a municipality should not have the ability to manipulate the process in order to block a terminated whistleblower's access to trial. Mr. Bazua has not only been illegally terminated, but his reputation has been besmirched by the city. We expect that he will receive the redress he deserves, now that he will get his day in court before a jury."

Contact: Bernard Alexander
310-394-0888
balexander@akgllp.com