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Legal Recruiter Wins \$335K From Manatt Over Partner Hires

By **Cara Bayles**

Law360, San Francisco (September 1, 2017, 4:37 PM EDT) -- A Los Angeles jury on Thursday ordered Manatt Phelps & Phillips LLP to pay \$335,000 to a legal recruiter for breaching an oral contract related to the hiring of Buckley Sandler LLP financial services partner Donna Wilson and a three-person team that was brought on along with her in 2013.

The California Superior Court jury found Gregg Ziskind & Associates Inc., which does business as Ziskind Greene, had entered into an oral contract with Manatt to help land Wilson. It found the firm had breached that contract when it hired Wilson but paid another recruiter, Bobbie McMorrow, who sealed the deal after Ziskind had already made an introduction between Wilson and Manatt partner Barbara Polsky.

Polsky was not held personally liable, with the jury finding she made no false representations. But it found Manatt owed Ziskind \$335,000 in damages, which is what the firm paid McMorrow, according to Ziskind.

Ziskind Greene principal Gregg Ziskind said in an email that he was pleased with the verdict, invoking the Latin doctrine of negligence that translates to "the thing speaks for itself."

"In the only trial against a client I have ever had in over 35 years in the lawyer recruitment business, the jury rejected the testimony of the candidate Donna Wilson, the other recruiter Bobbie McMorrow and the defendants," he said. "They embraced mine. *Res ipsa loquitur*."

A firm spokesman for Manatt said in an email, "We are disappointed by the decision, because we continue to believe that we paid the recruiting fee to the right recruiter, and we are evaluating our options."

The 2013 complaint alleged that Ziskind had been subjected to the "often experienced ... immoral practice of certain of the managing partners who ... try to avoid paying the legal recruiter responsible for the initial introduction."

Ziskind, who specializes in placing lateral partners with his law firm clients, had done business with Manatt for 30 years and "had general authority from Manatt to use his own judgment as to candidates' appropriateness before introducing them to Manatt," according to the complaint.

The lawsuit alleged that in 2012, Ziskind met with Wilson, and in April 2013, with Polsky's blessing, he sent her an email on behalf of Manatt saying they were interested in hiring her. Wilson said she would meet with Polsky, but wasn't actively looking for a new job, according to the complaint.

Three months later, Ziskind claims he received a phone call from Polsky saying "in a voice conveying considerable anxiety" that the firm had hired Wilson, but closed the deal through McMorrow, who'd offered Wilson as a candidate in May, after Ziskind did. Polsky said the lapse was her fault, saying she hadn't told the firm's CEO, Bill Quicksilver, about the initial introduction, according to the complaint.

Ziskind met with Quicksilver a month later, giving him a copy of the emails he'd exchanged with

Wilson and Polsky about the hire, but according to the suit, Quicksilver stalled for weeks in getting back to GZA. Eventually, the firm made an announcement that it had hired Wilson, as well as John McGuinness, Leah Mosner and Brandon Reilly — her team from Buckley Sandler.

Manatt claimed at trial that no oral contract existed between Manatt and Ziskind, and that Wilson had never agreed to let him represent her as a candidate. They say she joined the firm because of McMorrow.

The lawsuit brought breach of contract, quantum meruit, unjust enrichment, and fraud and intentional misrepresentation claims against both the firm and Polsky.

All six claims from the complaint survived summary judgment, with the court finding there was a triable issue as to whether Wilson had consented to Ziskind representing her as a candidate, whether his introduction had facilitated the hiring, and whether he'd reasonably assumed that MPP had agreed to pay him a placement fee.

Ziskind is represented by Morgan Pietz and Gerard Fox of Gerard Fox Law PC.

Manatt is represented by Roman Silberfeld and Bernice Conn of Robins Kaplan LLP.

The case is Gregg Ziskind & Associates Inc. v. Manatt Phelps & Phillips LLP, case number SC121314, in the California Superior Court for the County of Los Angeles.

--Editing by Philip Shea.

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