



---

Portfolio Media, Inc. | 111 West 19th Street, 5th floor | New York, NY 10011 | www.law360.com  
Phone: +1 646 783 7100 | Fax: +1 646 783 7161 | customerservice@law360.com

---

## Manatt Can't Dodge Recruiter's \$335K Trial Win, Panel Says

By **Daniel Siegal**

Law360 (September 28, 2018, 10:08 PM EDT) -- A California appeals court on Friday affirmed a jury's finding that Manatt Phelps & Phillips LLP must pay a legal recruiter \$335,000 for connecting the firm with its managing partner-elect, ruling that substantial evidence backed the jury's verdict.

In a 20-page unpublished ruling, a three-judge panel unanimously affirmed the final judgment in favor of recruiter Gregg Ziskind & Associates Inc., which does business as Ziskind Greene. The jury in the case had found that Manatt breached an oral contract with Ziskind when it hired Donna Wilson away from Buckley Sandler LLP but paid another recruiter, Bobbie McMorrow, who had sealed the deal after Ziskind had previously made an introduction between Wilson and Manatt partner Barbara Polsky.

Los Angeles Superior Court Judge Lisa Jaskol, sitting pro-tem on the court of appeals, wrote the opinion for the panel. Judge Jaskol rejected Manatt's argument that it deserved judgment entered in its favor because Ziskind didn't live up to his end of the deal with the firm, saying the evidence supported the jury's finding that the reason Ziskind didn't live up to the deal was that Manatt prevented him from doing so.

"There is substantial evidence that Manatt prevented, hindered, or unfairly interfered with Ziskind's ability to perform under the contract," Judge Jaskol wrote.

The panel also rejected Manatt's argument that the trial court's refusal to give the jury special instructions on contract formation doomed the verdict, holding that the trial court did not make a mistake, but that even if it did, the absence of the special instruction didn't prejudice Manatt.

Ziskind attorney Marina Bogorad of Gerard Fox Law PC told Law360 on Friday that the appeal was expedited because of Ziskind's advanced age and that she hopes the ruling means he'll now get his overdue payment.

"Manatt's attempts to wiggle out of paying GZA its [duly] earned recruiting fee based on the argument that [GZA] did not complete Wilson's introduction to Manatt was rightfully rejected by the Court of Appeals," Bogorad added. "The court did so based on the well-established maxim that Manatt cannot shield itself from liability having prevented GZA from completing its part of the bargain."

Ziskind, via his attorney, said only, "Res ipsa loquitur."

Representatives for Manatt did not immediately respond to requests for comment on Friday.

Ziskind's 2013 complaint alleged that he 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 Wilson an email on behalf of Manatt saying the firm was interested in hiring her. Wilson said she would meet with Polsky but wasn't actively looking for a new job, according to the complaint.

Ziskind claims he received a phone call three months later from Polsky saying "in a voice conveying considerable anxiety" that the firm had hired Wilson but closed the deal through McMorrow, who had offered Wilson as a candidate after Ziskind did.

Eventually, the firm made an announcement that it had hired Wilson, as well as John McGuiness, Leah Mosner and Brandon Reilly — Wilson's team from Buckley Sandler. Last month, Manatt announced that Wilson had been selected as the next CEO and managing partner of the firm, to start in July 2019.

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. Manatt said she joined the firm because of McMorrow.

In September 2017, **a Los Angeles jury found** that Manatt owed Ziskind \$335,000 in damages, which is the amount the firm had paid McMorrow.

**During oral arguments in August**, Roman Silberfeld of Robins Kaplan LLP, representing Manatt, said it was undisputed that the agreement between Manatt and Ziskind was nonexclusive, meaning the firm could use another recruiter to hire the same lawyer, and that it was also undisputed that Ziskind never actually introduced Wilson to Manatt "for employment purposes."

On Friday, the appellate panel agreed that Manatt had the right to use another recruiter to hire the same lawyer, but it said that didn't mean there wasn't sufficient evidence to support the jury's verdict.

Justices Lamar Baker and Carl Moor sat on the panel that issued Friday's opinion with Los Angeles Superior Court Judge Lisa Jaskol, sitting pro-tem.

Ziskind is represented by Gerard P. Fox and Marina Bogorad 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 B287922, in the Court of Appeal for the State of California, Second Appellate District.

--Editing by Haylee Pearl.