



msk client pbs scores \$1.5m jury win in tavis smiley #metoo case

March 4, 2020

MSK client PBS prevailed on its claim that the production company owned and operated by former late-night talk show host Tavis Smiley, who hosted a PBS talk show and was one of several prominent men in media accused of sexual misconduct amid the #MeToo movement, breached the morals clause in its contracts with PBS and breached certain accounting provisions obligating Smiley's company to pay money to PBS. PBS also defeated all of Smiley's company's claims against PBS. On Wednesday, March 4th, a Washington, D.C. jury returned a verdict in favor of the public broadcaster on all counts.

Law360 explains Smiley "had sued PBS in February 2018 through production company TS Media (TSM), alleging PBS fired him following a sham investigation into an anonymous misconduct complaint." Smiley alleged that the broadcaster "used trumped-up allegations that he pressured female subordinates into sex as a smokescreen for firing him because of his race."

PBS countersued a few weeks later, alleging Smiley breached his contracts from 2015, 2016, and 2017 by engaging in sexual misconduct that included patterns of sexual encounters with subordinates and unwanted advances toward them, and also alleging Smiley's company failed to pay PBS amounts owed under the 2015 and 2016 contracts as determined by an audit.

Shortly after the litigation began, the Court dismissed all of the tort claims brought by Smiley's companies against PBS on an anti-SLAPP motion, and awarded PBS attorney's fees which Smiley's companies paid. Before trial, on PBS's summary judgment motion, the Court dismissed Smiley's company's claim that PBS had wrongfully cancelled the *Tavis Smiley* show with findings that PBS had a contractual right to suspend broadcasting of the *Tavis Smiley* show while allegations of sexual misconduct were investigated.

On Wednesday, a Superior Court jury ruled in PBS' favor on all remaining counts, finding that Smiley's company breached its 2015 and 2016 contracts, and that PBS did not breach the 2017 contract by not making certain contractual payments unless Smiley's company provided assurances that it would perform the contract, which it never provided. PBS was awarded about \$940,000 in

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damages for the 2015 contract breach and another \$540,000 in damages for the 2016 contract breach. PBS's damages for Smiley's company's breaches of the morals clause still has to be decided by the Court.

Led by Chairman **Kevin Gaut** and partner **Hayward Kaiser**, MSK advised PBS regarding its contractual rights when anonymous allegations against Smiley were first brought to PBS's attention, conducted the investigation which uncovered the evidence of Smiley's breaches of the morals clause, and served as co-counsel with Morgan Lewis & Bockius during the pre-trial and trial phases of the litigation.

The MSK team also included attorneys from the firm's Los Angeles and Washington, D.C. offices and various practice groups, including partners **Jim Guerra**, **Jonathan Turner**, **Lucia Coyoca** and **Yakub Hazzard** and associates **Craig Bradley** and **Tiana Bey**. Morgan Lewis & Bockius's team was led by partners Grace Speights and W. Brad Nes, and included associates Amanda B. Robinson and Elliott Brown.

The case and its outcome received considerable media coverage and were also covered by *Variety* and *The Hollywood Reporter*.

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