



## Willenken Secures Full Dismissal of Telecommunications Lawsuit

July 9, 2018

Willenken Wilson Loh & Delgado LLP delivered a checkmate in the pleadings stage of a complex business matter, forcing plaintiffs to dismiss their claims with prejudice in favor of Willenken's client, Motorola Solutions, Inc.

Plaintiffs Acumen Communications, Inc. and Metro-Two Way, LLC sued Motorola in state court, alleging Motorola had unfairly obtained a federal grant to install a multi-million dollar public safety radio system for the City of Glendora. Plaintiffs claimed the radio system interfered with Plaintiff's privately licensed radio frequencies. Plaintiffs demanded millions of dollars from Motorola, as well as an injunction that would have shut down the City of Glendora's radio system and prevented Motorola from bidding on any public contracts in California in the future. Motorola retained Willenken partner Paul Loh and associate Aarti K. Wilson to defend the case.

Willenken removed the case to federal court and moved to dismiss, arguing Acumen's claims for radio frequency interference were preempted by the Federal Communications Act, which precludes private lawsuits for alleged damages from radio interference and vests primary jurisdiction in the FCC. The Court granted Willenken's motion, leading Plaintiffs to change tactics and amend their Complaint to allege instead that Motorola had violated the Sherman Act by colluding with the City of Glendora to obtain municipal contracts, to the exclusion of Plaintiffs.

Willenken filed another motion to dismiss, pointing out that Plaintiffs' antitrust theory suffered a fatal flaw: bid-rigging requires allegations of conspiracies among competitors, and Plaintiffs could not make any such allegations. Willenken associate Aarti K. Wilson also shrewdly discovered by investigating public records that due to false statements made on license applications, Plaintiff Acumen's corporate status had been suspended, and the FCC had terminated all of its radio frequency licenses. Once Willenken presented these facts to the Court, Plaintiffs offered to dismiss their lawsuit with prejudice, resulting in a complete victory for Motorola.

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### PRACTICE AREAS

Complex Business Litigation