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Traumatized content moderators win treatment in unique class action case

CLASS ACTIONS

Scola v. Facebook, Inc.

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The nightmares plaguing “mods”—the content moderators who work eight-hour shifts keeping Facebook free from violent, hateful images and viewpoints—were real, Steven N. Williams knew. The clients he sought to represent suffered actual psychological trauma from constant and unrelenting exposure to noxious posts depicting murders, sexual crimes, bestiality, child abuse, and other vile behavior.

But how to prove it in court? In a complicated, first-of-its-kind class action, Williams and his team at the Joseph Saveri Law Firm, LLP developed a strategy that aimed to achieve a medical monitoring solution for his afflicted clients. It worked: A year of litigation followed by a year of settlement talks achieved workplace mitigation reforms plus \$52 million for mental health treatment for the class and \$15.6 million in attorney fees.

“There had never been jobs like this before, so there was no precedent for this case,” said Williams, a firm partner

and veteran antitrust and commercial litigator who formerly worked at Cotchett, Pitre & McCarthy LLP. To avoid having the claims shunted into the workers comp system, he tried the innovative medical monitoring approach. That remedy is available under California law, but successful cases are “as rare as bigfoot sightings,” he said.

Creative lawyers seek novel challenges. “There’s no limit to what you can do if you’re prepared to lose sometimes,” Williams said. “And sometimes you want to make a statement about something that’s just wrong.” Surprisingly, Facebook CEO Mark Zuckerberg had acknowledged the content moderation problem in a Facebook post. “With his essay he’d put himself in the middle of the primary issue of the case,” Williams said. That made the litigation tougher. “I was taken aback by the tone coming from the lawyers on the other side. They took a very aggressive approach when we sought access to information, access to



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STEVEN N. WILLIAMS AND JOSEPH R SAVERI

Zuckerberg and [COO Sheryl] Sandberg. It was a third rail for them. They insisted we had no legal claim. They were in a hard spot because of Zuckerberg’s essay. He did not want to testify under oath.” *Scola v. Facebook Inc.*, 18CIV05135 (San Mateo Co. Super. Ct., filed Sept. 20, 2018).

After Williams filed motions for summary judgment and for judgment on the pleadings, Facebook asked for settlement talks. A JAMS neutral mediated a deal that took another year to hammer out. Final approval came in July 2021 for 14,000 class members who work for Facebook vendors in California, Arizona, Texas, and Florida.

Williams credited team members including firm founder Joseph R. Saveri, in an advisory role, along with Kevin E. Rayhill and Katharine L. Malone. Co-counsel are from Burns Charest LLP in New Orleans and Dallas.

Williams has filed two follow-on cases on behalf of content moderators at YouTube Inc., a Google LLC company, currently in settlement talks, and at TikTok Inc., a unit of ByteDance Technology Co. Ltd. TikTok fired the lead plaintiff; Williams may represent her in a wrongful termination suit and has refiled the class action.

- JOHN ROEMER