

California Practice Guide

CIVIL TRIALS AND EVIDENCE

CHAPTERS 1-7

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DEDICATED TO AND IN MEMORY OF
OUR FOUNDERS**

WILLIAM A. RUTTER

(OCTOBER 21, 1928 - FEBRUARY 2, 2012)



LINDA DIAMOND RAZNICK

(OCTOBER 2, 1951 - NOVEMBER 15, 2025)



**IN MEMORY OF
ORIGINAL AUTHOR
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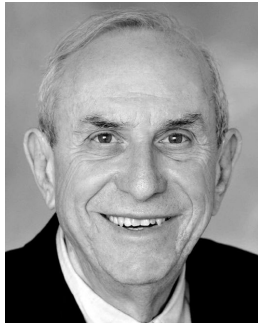


ABOUT THE AUTHORS



ROBERT H. FAIRBANK founded Fairbank ADR in 2014 as an Alternative Dispute Resolution practice focusing on high-stakes, complex civil matters. Fairbank ADR succeeds Fairbank & Vincent, co-founded by Mr. Fairbank in 1996 after serving as a partner of Gibson, Dunn & Crutcher.

Mr. Fairbank was Chair of the California Judicial Council subcommittee on uniform local trial rules and is a past president of the Association of Business Trial Lawyers. He has been a Lecturer of Law at Stanford Law and Business Schools (2007) and USC Gould School of Law (2003-present).



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MATTHEW K. WEGNER is a founding partner at Brown Wegner LLP, in Irvine, California, where he specializes in commercial, intellectual property, and business litigation and trials. Mr. Wegner has been practicing for 20 years, has authored several articles on business litigation, is a fellow in the Litigation Counsel of America, and serves on the Board of Directors for the local chapter of the Federal Bar Association. Mr. Wegner is a coauthor of *Rutter Group Practice Guide: Federal Civil Trials & Evidence*, published by Thomson

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LISA A. WEGNER is a shareholder with Call & Jensen, which is located in Newport Beach, California. She specializes in complex civil and employment litigation. Ms. Wegner is a member of the Administration of Justice Committee with the Orange County Bar Association and is a coauthor of *Rutter Group Practice Guide: Federal Civil Trials & Evidence*, published by Thomson Reuters.

PREFACE

We set several objectives in writing this Practice Guide in order to make it useful to *all* trial lawyers, whether in solo, firm or government practice:

Our first objective is to be *comprehensive*. We want you to have reliable information at your fingertips on *all* stages of trial practice, from pretrial preparations to post-trial motions.

Our second objective is to provide the most efficient and *practical* methods for accomplishing each procedure. To this end, we provide practice pointers, forms, checklists and guidelines utilized by experienced trial lawyers.

Our third objective is to provide *insight into the “art”* of trying a lawsuit. Obviously, there is no single “best” method and you must be true to your own personality. But certain strategies and tactics are often helpful, and we present these for your consideration.

Our final objective is to be and remain *up-to-date*. We focus on the rules and procedures currently in effect and minimize historical discussion. We will revise this book frequently in order to keep you current and catch new trends as they develop.

Having stated our objectives, let us express some *caveats*:

Many judges have their own way of trying a lawsuit. It is your job to *find out* the judge’s policies and preferences (so-called “local local rules”) as well as the court’s local rules. We mention some local rules but cannot cover them all.

Not every judge will agree with the views we express. Each judge has different “tolerance levels” to evidence, argument and motions. Some may disagree with our interpretation of relevant statutes and case law. This reinforces the need to *learn as much as possible* about the judge who is trying your case and to utilize this information in your trial planning.

Finally, no two trials are alike. What works beautifully one time may backfire the next. Therefore, our practice pointers should not be taken as “gospel.” They are simply presented for your consideration. (If you have better ideas, we welcome your suggestions!)

We realize trial lawyers operate in an environment that demands precision and that moves at the speed of sound. The aim of this Practice Guide is to make life a little easier.

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DEDICATIONS

The authors dedicate this Practice Guide to their families who put up with loss of “prime time” hours over the several years it took to get the book written. Specifically:

Mr. Fairbank’s dedication is to his wife, Valerie, his children, Sarah and David, and his father, William M. Fairbank, whose inspiration, love of life and creative spirit endure.

Judge Chernow’s dedication is to his wife, Arlene, and daughters, Mari, Jordana and Ilana and their families . . . who are continuing sources of love, joy and inspiration.

Mr. M. Wegner is proud to continue the work of his father, original co-author William E. (“Bill”) Wegner, on this book. He dedicates his efforts to Bill Wegner and all of Bill’s grandchildren.

Ms. Wegner’s dedication is to her children, her husband, her parents, and William Wegner, whose hard work and dedication she aims to carry forward.