

Rutter Group Practice Guide

FEDERAL

EMPLOYMENT LITIGATION

CHAPTERS 1-7

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JAMS Neutral, Detroit, Michigan
Former United States District Judge
Eastern District of Michigan

HON. AMY J. ST. EVE

United States Circuit Judge
U.S. Court of Appeals, Seventh Circuit

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Decatur, Georgia

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ABOUT THE AUTHORS



Hon. Gerald Rosen (Ret.) is a JAMS neutral in Detroit, Michigan following 26 years of service on the federal bench as a United States District Judge for the Eastern District of Michigan, including seven years as that Court's Chief Judge. Judge Rosen served as the Chief Judicial Mediator in the Detroit bankruptcy. Before appointment to the bench, he was a senior partner with Miller, Canfield, Paddock and Stone where he was a trial lawyer specializing in commercial, employment and constitutional litigation. Earlier in his career, he served as a legislative assistant to U.S. Senator Robert P. Griffin. Judge Rosen was also a member of the U.S. Judicial Conference's Criminal Law Committee (1995-2001). He is active in legal education and serves as an adjunct professor at University of Michigan Law School, Wayne State University Law School and Thomas M. Cooley Law School. Judge Rosen has written extensively on evidence and civil procedure topics and is a coauthor of The Rutter Group's Federal Civil Trials and Evidence Practice Guide. He has also lectured at numerous international conferences of judges and lawyers.



Hon. Amy J. St. Eve was appointed as a United States Circuit Court Judge for the Seventh Circuit in 2018. Prior to her appointment, Judge St. Eve served as a United States District Court Judge for the Northern District of Illinois from 2002-2018. Judge St. Eve has been a member of the Judicial Conference Committee on the Budget since 2018, and became the Chair of the Budget Committee in 2021. She previously served as a member of the Judicial Conference Committee on Rules of Practice and Procedure (2013-2018), and was the liaison to the Judicial Conference Advisory Committee on Criminal Rules (2013-2018), is Chair of the Seventh Circuit Pattern Criminal Jury Instructions Committee (2018-present), and was a prior member of the Northern District of Illinois Patent Local Rules Committee. Judge St. Eve also was a member of the Federal Judicial Center's District Judge Education Advisory Committee (2016-2018). Judge St. Eve previously served as a member of the Judicial Conference Committee on Court Administration and Case Management (2006-2013) and as the Seventh Circuit Representative to the Federal Judges Association (2007-2013). She has been a member of the American Law Institute since 2018, and has been on the ALI's Council since 2025. She is a member of the Chicago branch of the Federal

Bar Association, the American Bar Association, the Chicago Bar Association, the Illinois State Bar Association, and the Chicago Women's Bar Association.

Judge St. Eve served on the Chicago Bar Association's Board of Managers (2014-2016). She is an adjunct professor at the Northwestern University Pritzker School of Law, where she teaches complex litigation and trial advocacy. Immediately before ascending to the bench, Judge St. Eve served as senior counsel for litigation at Abbott Laboratories. Before joining Abbott Labs, Judge St. Eve served for five years as an Assistant United States Attorney in the U.S. Attorney's Office for the Northern District of Illinois. Before joining the U.S. Attorney's Office, Judge St. Eve served for two years as an associate independent counsel for the Whitewater Independent Counsel investigation in Little Rock, Arkansas, where she second chaired the successful prosecution of former Governor Jim Guy Tucker, Jim McDougal and Susan McDougal for fraud. Before joining the Whitewater team, Judge St. Eve was a litigation associate in the New York City office of Davis Polk & Wardwell LLP. Judge St. Eve earned her B.A. from Cornell University and her J.D., magna cum laude, from Cornell Law School, where she was inducted into the Order of the Coif and served as an articles' editor on the Cornell Law Review.



Elizabeth J. Cabraser is a founding partner of Lieff Cabraser Heimann & Bernstein, LLP, with 45 years' experience representing plaintiffs in securities, product liability, consumer fraud, mass tort, civil rights, and employment discrimination litigation in federal and state courts. She has served as court-appointed lead, co-lead, or class counsel in scores of federal multi-district and state coordinated proceedings, including serving as Lead Counsel and Chair of the Plaintiffs' Steering Committee in the historic nationwide Volkswagen "Clean Diesel"

Emissions fraud litigation and as a Plaintiff's Executive Committee member, Lead Counsel, and Settlement Counsel in the nationwide Opioids litigation. She speaks and writes extensively on substantive legal issues as well as those related to the advancement of women in the profession, and lectures on class action and complex litigation at Berkeley and Yale Law Schools as well as numerous other institutions. She has been named repeatedly to the Lawdragon 500, The Top 100 California Lawyers, and as a SuperLawyer in multiple fields. In 2010, the ABA Commission on Women in the Profession honored her with its Margaret Brent Women Lawyers of Achievement Award, regarded by many as the highest honor in the legal profession for women lawyers. She was selected by Law360 as a 2016 MVP for Class Action Law, and in February 2017 was named Benchmark Litigation's "Plaintiff Attorney of the Year." She received the National Consumer Law Center's prestigious Vern Countryman Award in 2019.



Thomas R. Schuck is a partner in the law firm of Taft Stettinius & Hollister LLP in Cincinnati, Ohio, where he practices in the areas of commercial, bankruptcy and employment litigation. Mr. Schuck is past national President of the Federal Bar Association, and former Barrister of the Potter Stewart American Inn of Court. In 1997, he coordinated the Federal Bar Association's Government Relations Committee's nationwide grassroots effort to promote proposed COLA legislation for federal judges. He is a Charter Fellow of the Federal Bar Association Foundation of Cincinnati. Mr. Schuck is a life member of the Judicial Conference of the Sixth Circuit. He received his J.D. from Harvard Law School.



William D. Goren, J.D., LL.M. is one of the country's foremost authorities on the Americans with Disabilities Act and has been specializing in the ADA since 1990. His law and consulting practice and his blog, <https://www.understandingtheada.com/>, focus on what it means to comply with the ADA and related laws including the Rehabilitation Act of 1973, the Air Carrier Access Act and the Fair Housing Act, among others. Mr. Goren brings a deep, personal understanding of what it means to have a disability, equipping him with exceptional insight into how the ADA actually works. He is deaf, with a congenital sensorineural bilateral hearing loss of 70-120+ decibels, but functions entirely in the hearing world with hearing aids, Bluetooth technology, automatic speech recognition, lip reading and voice dictation technology. He is a frequent presenter, a trained mediator, a FINRA arbitrator (Chairperson eligible) and arbitrator on the Conflict Prevention & Resolution (CPR) employment panel. He is the author of *Understanding the ADA*, published by the ABA in 2013 and now in its 4th edition (his blog updates the book on a weekly basis in real time) and numerous other articles on the rights of people with disabilities. He is, and has been a board member of various American Bar Association committees, including the Legal Technology Resource Center Board, the Law Practice Section Client Development and Marketing Committee, the Law Practice Section Ethics and Professionalism Committee and the Law Practice Section DEI committee. He is also a member of various committees of the Federal Bar Association (FBA) including the Committee for Advancement of the Legal Profession (Diversity and Inclusion Committee), the Civil Rights Section governing board, and the Civil Rights Amicus committee. Since 2022, Mr. Goren has been the Chair of the FBA's Disability Best Practices Working Group, which released an accessibility manual for meetings and conventions and is currently working on a manual that will help attorneys understand how to work with persons with disability during the course of their practice. Also pending is a resource guide

that federal courts can use to help ensure their courtrooms are accessible to people with disabilities. He is also a member of the Deaf and Hard of Hearing Bar Association. He has an A.B. from Vassar College, a Juris Doctor from the University of San Diego School of Law and an LL.M. in Health Law from DePaul University College of Law.

PREFACE

The work before you is designed to provide a road map through the thicket of federal statutes, regulations and case law governing the employment relationship. Our goal is to provide concise, reliable answers to the issues most commonly encountered in employment litigation. Keep in mind, however, that this is a complex and extremely fast-changing field, and many issues are unsettled. As a result, other judges and lawyers may disagree with the views expressed herein. (Indeed, the authors reserve the right to disagree on matters presented to any of us!)

This book is also intended to be a true practice guide. To that end, we have included practice pointers to alert you to common pitfalls and assist you in representing clients effectively in employment cases.

We are committed to keeping this Practice Guide up to date and to rewriting it as required to reflect developments in the law. Our readers can help in this effort. We invite your input on how this work can be improved and on any changes or corrections you deem appropriate.

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