

California Practice Guide

EMPLOYMENT LITIGATION

CHAPTERS 1-7

HON. MING W. CHIN (Ret.)
Associate Justice
California Supreme Court

HON. REBECCA A. WISEMAN (Ret.)
Associate Justice
California Court of Appeal, Fifth District

HON. CONSUELO MARIA CALLAHAN
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U.S. Court of Appeals, Ninth Circuit

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(OCTOBER 21, 1928 - FEBRUARY 2, 2012)



LINDA DIAMOND RAZNICK

(OCTOBER 2, 1951 - NOVEMBER 15, 2025)



ABOUT THE AUTHORS



Hon. Ming W. Chin (Ret.) was an Associate Justice of the California Supreme Court from 1996 to 2020 and is currently a mediator, arbitrator, referee, and appellate consultant at ADR Services, Inc. He previously served as the Presiding Judge of the Court of Appeal, First District, Division Three; and earlier on the Alameda County Superior Court.

Justice Chin is a graduate of the University of San Francisco School of Law and also taught law there. Before his appointment to the bench, he had extensive trial experience as an Alameda County deputy district attorney and as a partner in an Oakland law firm where he specialized in business and commercial litigation.

Justice Chin has authored important opinions on employment discrimination, punitive damages and scientific evidence. He is a frequent lecturer on these topics and has chaired numerous programs on employment litigation for the California Judges Association and The Rutter Group. Justice Chin also coauthors The Rutter Group's *Forensic DNA Evidence: Science and the Law*.



Hon. Rebecca A. Wiseman (Ret.) served as an Associate Justice of the California Court of Appeal, Fifth Appellate District, for 18 years. She previously served on the Kern County Superior Court.

Justice Wiseman is a graduate of the University of California, Davis, School of Law, and has earned an LL.M. degree from the University of Virginia, School of Law. She served on the Board of Directors for the California Judges Association and is past Chair of the California Judges' Foundation.

She is a coauthor of The Rutter Group's *California Practice Guide: Employment Litigation*. Justice Wiseman is a member of the Temporary Assigned Judges Program and has sat on assignment at the First District Court of Appeal, Divisions 3 and 5, the Sixth District Court of Appeal, currently on the Third District Court of Appeal, and on numerous Central and Northern California trial courts.



Hon. Consuelo Maria Callahan is a United States Circuit Judge for the Ninth Circuit Court of Appeals. Before her appointment to the federal bench, she served as a Judge of the San Joaquin County Superior Court and Justice of the California Court of Appeal for the Third Appellate District. Earlier, Judge Callahan practiced as a deputy city attorney and as a prosecutor, specializing in child abuse, sexual assault, and homicide cases.

Judge Callahan is a graduate of Stanford University and the McGeorge School of Law and has an LL.M. degree from the University of Virginia School of Law. She is currently serving as a Regent of the University of the Pacific, Chair of Western University of Health Sciences Board of Trustees, and President of the American Inns of Court.

Judge Callahan has been a board member of the California Judges Association and is active in continuing education programs for attorneys and judges throughout California, nationally and internationally.



David A. Lowe is Managing Partner of Rudy, Exelrod, Zieff & Lowe, LLP, which exclusively represents employees. Mr. Lowe has served as lead trial counsel in complex class actions and individual employment cases. He has been recognized as one of the top employment lawyers in California and received the prestigious “CLAY” Award for Employment Law.

Mr. Lowe is a graduate of UC Berkeley, School of Law and served on the Board of Directors of the Bar Association of San Francisco and as Chair of the Labor and Employment Section. He also served as Chair of the International Bar Association (IBA) Discrimination and Equality Law Committee and is a member of the IBA Class Action Task Force.

Mr. Lowe regularly speaks on employment law issues for the International Bar Association, the American Bar Association, The State Bar Labor and Employment Section, the Rutter Group and others.



IN MEMORIAM

This Practice Guide is in large part the accomplishment of **Attorney David A. Cathcart**, one of the original authors. Dave planned and organized the contents, enlisted contributions from some of California's foremost judges and litigators, and did much of the original editing. Dave was a partner in Gibson, Dunn & Crutcher LLP and was recognized nationally for his expertise in employment and labor law.

PREFACE

This Practice Guide evolved from materials originally prepared for continuing education programs presented by the California Judges Association and The Rutter Group for California judges and lawyers. As these programs continued over a period of years, the program materials became increasingly comprehensive. This Practice Guide expands upon and updates those earlier efforts.

The work before you is designed to provide a road map through the thicket of 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 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, the lawyers contributing to this book have included practice pointers to alert you to common pitfalls and to 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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