



## Elizabeth B. Stallard Partner

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### Practice Areas

Appellate & Writ Practice | Class Action Defense | Complex Business Litigation | Disability Access | Employment Counseling | Employment Litigation | Intellectual Property Litigation | Privacy & Data Integrity | Products Liability | Regulatory Law & Business Permitting

Elizabeth Stallard helps clients navigate complex employment and business issues with a common sense and pragmatic approach. A seasoned and creative problem-solver, Elizabeth advises clients with workforce management issues and efficiently resolves disputes either through litigation or alternative dispute resolution.

Banks, mall owners, trade associations, manufacturers, and other businesses and individuals rely on Elizabeth for counsel in disputes with employees, business associates, and customers, in subject areas ranging from intellectual property to breach of contract to fraud and qui tam claims to environmental contamination. She has also been involved in the defense of several class actions, including currently serving as lead counsel in a class action involving ADA accessibility at a major hospital group.

Elizabeth has experience in all aspects of state and federal civil litigation at both the trial and appellate level, including discovery, motion practice, and alternative dispute resolution. She has represented clients involved in investigations by the EEOC, DFEH, Cal/OSHA, DLSE, DOJ, SEC, FAA, and other agencies, as well as represented those clients in related state and federal litigation and administrative proceedings. Elizabeth also has a long and demonstrated record of successful and effective advocacy in front of state and federal courts in both California and Nevada, including serving as lead trial counsel in both states.

Elizabeth also provides advice and counseling to both private and public sector clients dealing with workforce management, disability access, and worker safety issues.

## Experience

### Employment Counseling

- Provide advice to hospital regarding obligations associated with request for reasonable accommodation from physician.

- Advise technology consulting company regarding termination and severance options for various employees.
- Assist manufacturing company in implementing procedures for proper handling of requests for medical leave.
- Provide advice to public entity regarding steps required to comply with union grievance procedures.
- Conduct interviews and related workplace investigation stemming from accusations of employee misconduct at non-profit organization.
- Provide advice to public entity regarding form of performance evaluation and evaluation process for executive employee.
- Draft independent contractor agreement for medical device company.
- Prepare employment contract for executive employee of automobile dealership.
- Assist restaurant owner in remedying discrepancies associated with Employment Development Department reporting and payments.
- Provide advice to clients regarding CalPERS obligations and compliance.
- Prepare employee handbooks and associated policies for both public and private sector clients, including policies related to sick leave, employee benefits, social media, and workplace conduct.

## **Employment Litigation and Intellectual Property Litigation**

- Lead counsel for manufacturing company defending against lawsuit by former employee alleging disability discrimination, sexual discrimination, wrongful termination, and retaliation.
- Lead counsel for medical device company in action against former independent contractor for breach of contract, conversion, defamation, and fraud.
- Lead counsel for water heater company in class and PAGA action involving wage and hour, CFRA, and ICRAA claims.
- Lead counsel for scaffolding company defending against wrongful termination and age discrimination claim.
- Lead counsel for medical device company defending against claim that employee was improperly classified as independent contractor.
- Lead counsel for homeowners association defending against lawsuit alleging wrongful termination, discrimination, and wage and hour claims.
- Lead counsel for environmental services company and its principals in trade secret and breach of non-competition agreement dispute with former employer. The lawsuit, which also involved cross claims for sexual harassment and related employer misconduct, was favorably settled in mediation on eve of trial.
- Counsel for software company in action against customer and competitor for breach of license agreement, copyright infringement and trade secret misappropriation.
- Counsel for producer of animal biologics in action for misappropriation of trade secrets against former employee.

- Counsel for printer cartridge manufacturer responding to efforts by Lexmark International, Inc. to obtain third party discovery regarding alleged patent infringement. Successfully handled motion practice and related oral argument.
- Counsel for online computer accessories retailer in action against former employees for trade secret misappropriation and related claims.
- Counsel for engineered heating cable system manufacturer in litigation related to competitor's improper use of its intellectual property.
- Counsel for building maintenance services company in state and federal litigation related to misappropriation of intellectual property by competitor and former employee.

## **Disability Access Counseling and Litigation**

- Advise private and public entities regarding accessibility issues, and how to assess compliance with access laws.
- Investigate and prepare client responses to customer and public complaints regarding access issues.
- Advise parties to real estate transactions of their obligations under federal and state access laws and how to address these obligations in associated agreements.
- Lead counsel for Dignity Health in class action regarding ADA accessibility at all of its facilities, as well as individual lawsuits brought under state and federal access laws.
- Lead counsel for hospitals, shopping malls, restaurants, other commercial properties, and apartment buildings in claims brought under state and federal accessibility laws, as well as in federal and state administrative proceedings asserting access violations.

## **Cal/OSHA Counseling and Litigation**

- Provide advice and consultation to public and private entities regarding their obligations under applicable state and federal laws pertaining to worker safety.
- Represent clients responding to Cal/OSHA investigations and citations, including serving as lead counsel in related administrative proceedings.

## **Business Litigation and Appellate Litigation**

- Lead trial counsel in action seeking damages for breach of contract and tort claims, including fraud, related to failure to pay for professional services. Obtained judgment in client's favor after conclusion of two-week trial.
- Lead trial counsel in defense of California False Claims Act qui tam action involving Underground Storage Tank Cleanup Fund regulations. At close of Plaintiff's case, eliminated False Claims Act claim (and nearly all damages sought by Plaintiff) by prevailing on Motion for Judgment.
- Lead counsel for medical products distributor in action for breach of contract, fraud, unfair competition, and related claims.

- Lead counsel for client suing former business associate for breach of contract and fraud related to theft of company and personal property. Obtained judgment in client's favor.
- Lead counsel for trade association and workers' compensation administrator in breach of contract and fraud suit brought by a former association member. Obtained summary judgment on behalf of clients. When judgment was later appealed to the Ninth Circuit, conducted the oral argument and obtained affirmation of the District Court's judgment.
- Lead counsel for Black Rock City, LLC (Burning Man) in contract dispute with former ticket vendor. Obtained judgment in client's favor.
- Lead counsel for imaging equipment company in litigation related to alleged breach of equipment lease. Settled case on eve of trial.
- Counsel for Sierra Pacific Industries in action seeking review pursuant to Administrative Procedures Act for United States Department of Agriculture's refusal to make witnesses available for state court depositions.
- Counsel for purchasers of an automobile dealership pursuing claims against seller related to breach of the purchase agreement.
- Successful defense as lead counsel for forest products company in AAA arbitration brought by a hospital seeking to recover medical costs incurred for the care of a company employee.
- Lead counsel in successful defense against interlocutory appeal to Nevada Supreme Court in fraud and breach of contract dispute related to failure to pay for professional services.
- Counsel for winery in dispute related to defective products received from suppliers.
- Counsel for fertilizer manufacturer in product liability litigation involving damaged almond orchards.

## Professional & Community Service

- Sacramento Zoo, Board of Trustees, President, 2018-present; Vice President, 2017
- Leadership California, Class of 2016
- Leadership Sacramento, Sacramento Metro Chamber of Commerce, Class of 2009
- Federal Bar Association
- Sacramento County Bar Association, Labor and Employment Law Section
- California Lawyers Association, Labor and Employment Law Section
- Washoe County Bar Association
- Society for Human Resource Management
- Independent Order of Oddfellows
- Inspire Giving Fund

## Education

- J.D., New York University School of Law, 2002
- B.A., Willamette University, 1997

## Honors & Rankings

- *Sacramento Business Journal*, 40 Under 40, 2014
- *Sacramento Magazine*, Top Lawyer, Employment & Labor, Employee Benefits, 2015-2022

## Speaking Engagements / Events

- *The Inside Track: The current state of the Private Attorneys General Act*, Sacramento Business Journal Inside Track Series, September 1, 2022
- *2022 and Onward - Annual Employment Law Briefing*, Downey Brand Employment Webinar, February 11, 2022
- *The COVID-19 Vaccine Landscape and What Employers Need to Know to Implement a Successful Vaccination Program*, Downey Brand COVID-19 Webinar Series, March 11, 2021
- *2021 and Onward – Annual Employment Law Briefing*, Downey Brand Employment Webinar, January 13, 2021
- *Keeping Flood Infrastructure Projects and Maintenance Going During Times of Crisis: A Legal Perspective*, Floodplain Management Association's Annual Conference, September 9, 2020
- *COVID-19 Impacts on Workers' Compensation*, California Grocers Association, Webinar, June 11, 2020
- *COVID-19 Webinar No. 8: Considerations for Businesses & Employers*, Downey Brand COVID-19 Webinar Series, May 22, 2020
- *COVID-19 Webinar No. 6: Considerations for Nonprofit Organizations*, Downey Brand COVID-19 Webinar Series, April 24, 2020
- *COVID-19 Webinar No. 4: Considerations for Businesses & Employers*, Downey Brand COVID-19 Webinar Series, April 10, 2020
- *COVID-19 Webinar No. 2: Considerations for Businesses & Employers*, Downey Brand COVID-19 Webinar Series, March 27, 2020
- *Webinar: New Year, New Challenges - 2020 Annual Employment Law Briefing*, Downey Brand Employment Webinar, January 28, 2020
- *New Year, New Challenges: 2020 Annual Employment Law Briefing*, Downey Brand Employment Seminar, January 2020
- *Sexual Harassment in the Healthcare Setting*, Presenter, California Society for Healthcare Risk Management's 38th Annual Conference, March 7, 2019
- *New Year, New Challenges: 2019 Annual Employment Law Briefing*, Downey Brand Employment Law Seminar, January 2019
- *2018 ACWA Legal Briefing & CLE Workshop Presented by Downey Brand LLP*, ACWA 2018 Fall

Conference & Exhibition, November 27, 2018

- *Legal Updates: Employment Law Issues in the Agriculture Industry*, Co-presenter, Local Advisor Meeting, May 2018
- *Is That a Service Animal - or Just Your Pet Chihuahua?*, Speaker, California Society for Healthcare Risk Management 37th Annual Conference, March 8, 2018
- *New Year, New Challenges: 2018 Annual Employment Law Briefing*, Downey Brand Employment Law Seminar, January 2018
- *Mental Health & The Workplace*, Co-presenter, CalPERS Employment Law Presentation, July 10, 2017
- *Legal Update for Employers*, Presenter, Greater Stockton Employer Advisory Council's Luncheon, April 21, 2017
- *New Year, New Challenges: 2017 Annual Employment Law Briefing*, Downey Brand Employment Law Seminar, February 2017
- *ADA Compliance: What Every Business Needs to Know*, Presenter, Metro Chamber 2016 Seminar Series, August 31, 2016
- *California Business Owners Subject to New Employment Regulations*, Co-presenter, Metro Chamber 2016 Seminar Series, May 25, 2016
- *Cybersecurity for Your Business*, Joint Presentation with Moss Adams, Precision Public Relations and Wells Fargo Insurance, May 20, 2016
- *Grocery Compliance Toolkit: American With Disabilities Act*, Presenter, California Grocers Association, March 15, 2016
- *Employment Issues for Startups and Early Stage Companies*, Presenter, Sacramento County Bar Association Business Law Section, March 9, 2016
- *A New Year Means New Challenges: 2016 Annual Employment Law Briefing*, Co-presenter, Downey Brand Employment Law Seminar, February 24, 2016
- *Mental Health and the Workplace*, Presenter, Northern California County Counsels' Association Conference, July 23, 2015
- *Mid-Year Employer Update: Mental Health and the Workplace*, Co-presenter, Downey Brand Employment Law Seminar, June 18, 2015
- *Social Media and Mobile Devices: Legal Hotspots and How to Avoid Them*, Presenter, Fire Districts Association of California Annual Conference, April 9, 2015
- *Are you ready for 2015? Many New Laws Will Affect California Employers*, Co-presenter, Downey Brand Employment Law Seminar, January 27, 2015
- *Civil Litigation Practice: 2013 Annual Recent Developments*, Co-presenter, Continuing Education of the Bar (CEB), January 2013
- *Civil Litigation Practice: 2012 Annual Recent Developments*, Co-presenter, Continuing Education of the Bar (CEB), January 2, 2012

## Publications

- *ADA Update: Can That Animal Come in Here?*, California Grocer, Issue 1, March 2019
- *Jury Still Out on Whether Bill will Stymie Access Lawsuit Abuse*, Daily Journal, June 22, 2016
- *Urgency Legislation Helps Curb Frivolous PAGA Lawsuits*, California Grocer, Issue 6, November 2015
- *ADA News*, California Grocers Association, CGAbulletin, October 2012
- *Parallel Proceedings: Double Legal Trouble When Civil Litigation Turns Criminal*, Northern Nevada Business Weekly, Business Law Guide, September 2009

## Legal Alerts

- *COVID-19 Employers' Requirements Update*, June 18, 2021
- *Three Important New Employment Laws Taking Effect on January 1, 2021*, December 7, 2020
- *Employers Take Note – Recent Updates From the EEOC Regarding Antibody Testing and Harassment and Discrimination*, June 26, 2020
- *The United States Supreme Court Holds Title VII of the Civil Rights Act Protects Gay and Transgender Workers*, June 22, 2020
- *Governor Newsom Signs Executive Order Announcing Workers' Compensation Presumption for COVID-19*, May 8, 2020
- *The Department of Labor Issues New Regulations on the FFCRA*, April 6, 2020
- *The Department of Labor Issues Additional Guidance Regarding FFCRA Compliance*, March 29, 2020
- *Employers Should Consider the EDD's Work Share Program As an Alternative to Layoffs*, March 25, 2020
- *What is the status of the federal government's changes to the Family and Medical Leave Act?*, March 20, 2020
- *In response to increasing concerns regarding COVID-19, Governor Newsom seeks to minimize hardships and uncertainties for employers and their employees*, March 17, 2020
- *California Supreme Court Holds Apple Employees Must Be Compensated for Time Spent Undergoing Exit Searches*, February 18, 2020
- *California Supreme Court Declines to Apply the Federal De Minimis Doctrine to Post-Shift Activities*, July 31, 2018
- *U.S. Supreme Court Declares Agency Fees Unconstitutional, Leaving Unions and Others in the Lurch*, June 28, 2018
- *SCOTUS Upholds Class Action Waivers in Arbitration Agreements*, June 28, 2018
- *California Supreme Court Clarifies Overtime Calculation Involving Flat Sum Bonuses*, June 28, 2018
- *California Supreme Court Narrows Independent Contractor Classification*, May 3, 2018
- *California Supreme Court Addresses Suitable Seating*, April 5, 2016



- *California Hammers Final Nail into Piece Rate Coffin at the Same Time it Creates an Affirmative Defense*, October 20, 2015
- *Governor Signs Urgency Legislation to Help Curb Frivolous PAGA Suits*, October 6, 2015
- *Fair Employment and Housing Council Amends California Family Rights Act Regulations*, August 25, 2015
- *California Legislature Amends the Healthy Workplaces, Healthy Families Act of 2014*, August 25, 2015
- *Protections under the Fair Employment and Housing Act Extended to Unpaid Interns*, October 8, 2014
- *California Legislature Clarifies and Expands Prevailing Wage Laws*, October 8, 2014
- *California Becomes Second State to Require Paid Sick Leave*, October 8, 2014
- *Minimum Wage Citations Issued by the Labor Commissioner Now Include any Applicable "Waiting Time" Penalties*, October 8, 2014
- *California Imposes Additional Requirements to Address Sexual Harassment of Agricultural Field Workers*, October 8, 2014
- *Employers Now Share Liability with Staffing Companies and Labor Contractors for Wage Violations*, October 8, 2014
- *Required Sexual Harassment Training for Supervisory Employees Must Now Include Training on the Prevention of Abusive Conduct*, October 8, 2014
- *California Minimum Wage Increases to \$9*, June 16, 2014
- *California Supreme Court Decision Expected this Summer Regarding Enforcement of Class-Action Waivers in Arbitration Agreements*, June 16, 2014
- *California Expands Paid Family Leave*, June 16, 2014