



Ernest (Ernie) M. Malaspina

Partner

San Jose

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Ernie Malaspina advises private and public sector employers on a wide range of employment issues. Ernie defends single-plaintiff and class action lawsuits and has extensive experience litigating claims of wrongful termination, discrimination, harassment, retaliation, employee embezzlement, breach of contract as well as wage and hour controversies, among other disputes.

Ernie also regularly counsels and assists employers in resolving a variety of employment issues, including:

- Hiring practices
- Employment policies and procedures
- Wage and hour compliance
- Employee discipline
- Discrimination
- Harassment
- Retaliation
- Wrongful discharge
- Unfair competition and protection of trade secrets
- Effective strategies to avoid litigation

Ernie develops and presents comprehensive seminars directed to executives and managers of businesses from large public companies to smaller private entities, regarding pertinent employment law issues as part of the company's ongoing risk management program.

Areas of Focus

Services

[Labor & Employment](#)

[Employment Litigation](#)

[Litigation](#)

[Employment Counseling &](#)

[Personnel Management](#)

[Advising](#)

[Class, Collective & PAGA](#)

[Representative Actions](#)

[Discrimination, Harassment](#)

[& Abusive Conduct](#)

Sectors

[Industrial & Manufacturing](#)

[Restaurant, Food & Beverage](#)

[Technology](#)

[Wholesale & Retail](#)

[Distribution](#)

Ernie previously served as Hopkins Carley's Managing Shareholder and was the Chair of their Litigation Department for more than 10 years.

Experience

- Won summary judgment in state court, surviving two appeals in a case involving a public sector employee suing his former employer alleging wrongful termination, due process violations and retaliation based on a variety of discrimination and "whistle-blower" theories.
 - In a complex case involving intricate issues of fact and numerous attempts to mediate, successfully resolved the matter after serving the company's motion to defeat class certification on plaintiffs' counsel.
 - Represented a local service provider in a matter involving two former employees that embezzled a significant amount of company funds. Obtained a judgment in the amount of the embezzled funds, and convinced both state and federal criminal authorities to take action resulting in incarceration and restitution orders.
 - Won summary adjudication for a clinical research services company which led to the successful resolution of a lawsuit brought by a former project assistant claiming race discrimination, fraud, retaliation, and breach of contract.
 - Represented a public computer manufacturer and wholesaler in a harassment lawsuit filed by the company's vice president. Resolved successfully, and developed improvements in company-wide employment law training and practices to better protect against similar claims in the future.
 - Won summary judgment in state court for a technical measurement device company sued by a former employee terminated based on poor performance and financial impropriety in connection with claimed employment-related expenses.
 - Represented a manufacturer in an action against a former employee who had embezzled a significant amount of company funds. Obtained a stipulated judgment in the amount of the embezzled funds, and by convincing the federal authorities to utilize an obscure body of law, recovered otherwise protected retirement account funds, contributing to the satisfaction of the entire judgment.
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Credentials

Education

- Santa Clara University, J.D.
- University of California - Davis, B.A.

Bar Admissions

- California

Court Admissions

- U.S. District Court for the Northern District of California
 - U.S. District Court for the Central District of California
 - U.S. District Court for the Southern District of California
 - U.S. District Court for the Eastern District of California
 - U.S. Court of Appeals for the Ninth Circuit
 - All California State Courts
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Professional Activities

- Santa Clara Bar Association, Member

Community Involvement

- History San Jose, Past Board Member, 2003 - 2009