



## David F. Faustman

Partner

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David has handled a broad range of employment matters as well as varied commercial litigation throughout his career. David contributes to strategy and execution of acquisitions, providing seasoned judgment regarding labor relations, human resources and public affairs. His practice is focused on commercial and retail litigation, complex employment and labor law issues, including ADA access, union organizing, labor negotiations, labor arbitration, matters before the National Labor Relations Board, long-term workforce strategies, wage and hour laws and affirmative action. David also has experience in health and safety-related workplace issues and specifically, Cal-OSHA matters.

David's representations include major hotels, major retailers, shipping companies, and manufacturers.

Within the firm, David served as the Office Managing Partner of the San Francisco office and as a member on the firm's Executive Committee.

### Before Fox Rothschild

David was a partner in a large, international law firm. He was then Senior Vice President for Labor Relations and Public Affairs for Safeway, Inc., and was Chairman of the California Retailers Association, a legislative advocacy group. David was a partner with Grotta, Glassman & Hoffman, P.C. and the founding managing partner of that firm's California offices.

### Client Resources

#### e-Book

[Doing Business in California: A Guide for Employers](#)

### Honors & Awards

- Named a "Leading Labor and Employment Lawyer" in California by the *Daily Journal* (2015)
- Named a Northern California "Super Lawyer" in the area of Labor and Employment Law by *Super Lawyers Magazine* (2011-2012, 2016-2018)
- Named to "Super Lawyers Business Edition" in the area of Employment and Labor Law (2013)

## Practice Areas

- Labor & Employment
- Litigation
- Hospitality
- Appellate Practice
- Retail Industry

## Bar Admissions

- California
- Nevada

## Court Admissions

- U.S. Supreme Court
- U.S. Court of Appeals, Ninth Circuit
- U.S. District Court, Northern District of California
- U.S. District Court, Eastern District of California
- U.S. District Court, Central District of California
- U.S. District Court, Southern District of California
- U.S. District Court, District of Nevada

## Education

- University of California, Los Angeles (J.D., 1978)
- University of Southern California (B.A., 1975)

# Publications

April 12, 2016

### **Uber's Correct: Court Botched Ruling**

The Daily Journal

September 2014

### **Iskanian v. CLS Transportation of Los Angeles: Employer's Perspective**

California Labor & Employment Law Review

First Quarter 2013

### **Uncooperative Employees are not Protected from Discipline**

California Update

First Quarter 2013

### **DFEH: New Procedures for Investigation and Litigation**

California Update

First Quarter 2013



**New State Disability Regulations**

California Update

First Quarter 2013

**Ninth Circuit Employment Law Happenings**

California Update

First Quarter 2013

**President Obama's Appointments to the NLRB May Be Invalid**

California Update

First Quarter 2013

**Damages May Be Limited in Mixed Motive Cases**

California Update

First Quarter 2013

**California Broadens the Protections for Pregnancy**

California Update

First Quarter 2013

**California Update Employment Law Newsletter**

Winter 2012

**California Update Employment Law Newsletter**

Winter 2012

**New California Laws for 2013**

California Update

Winter 2012

**California Supreme Court To Hear Employment Arbitration Cases**

California Update

Winter 2012

**Supreme Court To Decide Whether Unions Have Right of Access to Retailer's Private Property**

California Update

Winter 2012

**Written Commission Agreements Required in California**

California Update

Winter 2012

**California Court Allows Rounding of Time Entries**

California Update

Second Quarter 2012

**California Update Employment Law Newsletter**

Second Quarter 2012

**'Tis the Season for Unpaid Internships (Or Not!)**

California Update

Second Quarter 2012

**Legislative Watch**

California Update

Second Quarter 2012

**The Long Arm of California Law: Lidow v. Superior Court**

California Update

Second Quarter 2012

**Rules for Meal and Rest Breaks Clarified by California Supreme Court**

California Update

Second Quarter 2012

**Employee's Class Action Waiver Held Enforceable**

California Update

Second Quarter 2012

**The NLRB's Most Recent Rules on Social Media Policies**

California Update

Second Quarter 2012

**Attorneys Fees in Missed Meal and Rest Break Cases?**

California Update

Second Quarter 2012

**CAL/OSHA Launches Confined Space Special Emphasis Initiative**

California Update

First Quarter 2012

**New California Employment Laws for 2012**

California Update

First Quarter 2012

**Spotlight on San Francisco Employment Laws**

California Update

First Quarter 2012

**IRS to Help Employers When Reclassifying Employees**

California Update

First Quarter 2012

**Half Hour to Eat and a Suitable Seat**

California Update

First Quarter 2012

**Employment Issues Keep on Truckin'**

California Update



First Quarter 2012

**California Courts Remain Hostile to Arbitration Agreements Post-AT&T Mobility v. Concepcion**  
California Update

First Quarter 2012

**New ADA Access Regulations Will Affect Work Areas**  
California Update

First Quarter 2012

**California Update Employment Law Newsletter**

Winter 2011

**Wage Rates Increased for Computer Professional and Physician and Surgeon Exemptions**  
California Update

Winter 2011

**New Procedural Regulations from DFEH**  
California Update

Winter 2011

**Provide or Ensure? An Update on Brinker**  
California Update

Winter 2011

**New Laws Provide Additional Protections to Employees**  
California Update

Winter 2011

**NLRA Rights Apply to Employees at Non-Unionized Workplaces Too**  
California Update

Winter 2011

**Attorney Fee Disputes Between Employers and Employees Clarified**  
California Update

Winter 2011

**California UPDATE Employment Law Newsletter**

Second Quarter 2011

**California UPDATE Employment Law Newsletter**

Second Quarter 2011

**U.S. Supreme Court Overturns California Law on Arbitration Agreements**  
California Update Employment Law

Second Quarter 2011

**Calculation of Reporting Time Pay Clarified**  
California Update Employment Law

Second Quarter 2011

**Late Breaking News: U.S. Supreme Court Decides Dukes v. Wal-Mart**

California Update Employment Law

Second Quarter 2011

**Frequently Asked Questions Regarding the “Suitable Seating” Requirement of the California IWC Wage Orders**

California Update Employment Law

Second Quarter 2011

**A Safe Workplace Trumps a Reasonable Accommodation**

California Update Employment Law

Second Quarter 2011

**Trending Now: Calculation of the Regular Rate**

California Update Employment Law

Second Quarter 2011

**Fed OSHA May Follow Cal/OSHA’s Lead on Injury and Illness Prevention Programs**

California Update Employment Law

March 22, 2011

**Wheelchair Access: Courts Struggle With Prerequisite for Class Actions**

San Francisco Daily Journal

First Quarter 2011

**New Trend: Lawsuits for Wage Order Violations Concerning Work Conditions**

California Update Employment Law

First Quarter 2011

**Another California Appellate Court Concludes That Employers Need Not “Ensure” Employees Take Meal Breaks**

California Update Employment Law

First Quarter 2011

**Generous Employers Beware: Coordination of Disability Payments Just Got More Complicated**

California Update Employment Law

First Quarter 2011

**Meal and Rest Break Litigation Gets More Expensive**

California Update Employment Law

First Quarter 2011

**Litigation Alert: Federal Rules on Experts Change**

California Update Employment Law

First Quarter 2011

**New Employment Laws for 2011**

California Update Employment Law



First Quarter 2011

**Spotlight on the New Medical Donor Leave Law**

California Update Employment Law

First Quarter 2011

**2011 Litigation Watch: Cases Pending in the California Supreme Court**

California Update Employment Law

First Quarter 2011

**Reminder for Computer Software Employers**

California Update Employment Law

First Quarter 2011

**Spotlight on San Francisco**

California Update Employment Law

First Quarter 2011

**California UPDATE Employment Law Newsletter**

Fourth Quarter 2010

**Victory for Employers in Wage Case!**

California Update Employment Law

Fourth Quarter 2010

**LATE BREAKING NEWS**

California Update Employment Law

Fourth Quarter 2010

**California Supreme Court Creates New Obstacles to Summary Judgment for Employers**

California Update Employment Law

Fourth Quarter 2010

**ADA Accessibility Denied: Ensuring the “Chipotle Experience” for Everyone**

California Update Employment Law

Fourth Quarter 2010

**Revised Workers' Compensation Notice Must Be Posted**

California Update Employment Law

Fourth Quarter 2010

**Not On My Property!**

California Update Employment Law

Fourth Quarter 2010

**Ongoing Battles Regarding the Reach of California's Prohibition of Covenants Not to Compete**

California Update Employment Law

Fourth Quarter 2010

**California UPDATE Employment Law Newsletter**

Third Quarter 2010

**Ninth Circuit Avoids Employer's Choice-of-Law Provision With Creative Reasoning**

California Update Employment Law

Third Quarter 2010

**The Need for "Mini-Trials" on Individual Factual Issues Prompts Denial of Class Certification**

California Update Employment Law

Third Quarter 2010

**Supreme Court Lets Stand San Francisco's Health Care Ordinance**

California Update Employment Law

Third Quarter 2010

**California UPDATE Employment Law Newsletter**

Third Quarter 2010

**A Good Faith Defense to Punitive Damage Claims**

California Update Employment Law

Third Quarter 2010

**How Hiring Older Workers Can Be Age Discrimination**

California Update Employment Law

Third Quarter 2010

**Sometimes When You Win, You Really Lose — Rent-a-Center v. Jackson**

California Update Employment Law

Third Quarter 2010

**Martinez v. Combs: A New Definition of an Employer!**

California Update Employment Law

Third Quarter 2010

**Supreme Court Tackles Employees' Privacy Rights**

California Update Employment Law

Third Quarter 2010

**Making Sure Your Unpaid Interns Are Not Considered Employees**

California Update Employment Law

Second Quarter 2010

**Excessive Attorney's Fee Awards in FEHA Cases May Be Rejected Where Plaintiff's Damages Are Less Than \$25,000**

California Update Employment Law

Second Quarter 2010

**Defining Compensable Work Time: Rutti v. Lojack**

California Update Employment Law

Second Quarter 2010





**Recent Decision Makes It More Difficult To Claim Sexual Harassment**

California Update Employment Law

Second Quarter 2010

**California Supreme Court Rules on Free Speech in a "Public Forum"**

California Update Employment Law

Second Quarter 2010

**Alternatives To Layoffs: How the EDD May Help Your Business Reduce Costs and Retain Your Workforce**

California Update Employment Law

Second Quarter 2010

**Class Action Plaintiffs Can't Mix Federal and State Claims**

California Update Employment Law

Second Quarter 2010

**Even a Single Failure To Provide an Agreed-Upon Accommodation Can Be Costly**

California Update Employment Law

Second Quarter 2010

**Reminder: Statutory Wage and Hour Rights Cannot Be Waived**

California Update Employment Law

Second Quarter 2010

**Obama Makes Recess Appointments to the NLRB and EEOC**

California Update Employment Law

Second Quarter 2010

**Recent Items From Our Blog**

California Update Employment Law

Second Quarter 2010

**California UPDATE Employment Law Newsletter**

January 2010

**Labor Union News**

California UPDATE Employment Law

January 2010

**Wage and Hour**

California UPDATE Employment Law

January 2010

**Roby v. McKesson: Good News and Bad News for Employers**

California UPDATE Employment Law

January 2010

**Class Action Decertification Affirmed!**

California UPDATE Employment Law

January 2010

**Employers Are Liable for Business Expenses When They Have Actual or Constructive Knowledge of the Expenditures**

California UPDATE Employment Law

January 2010

**2010 Watch List: Employment Cases in the California Supreme Court**

California UPDATE Employment Law

First Quarter 2010

**California UPDATE Employment Law Newsletter**

October 2, 2009

**California Consumer Zip Codes Are Free Game**

The Daily Journal

July 2009

**Unique Aspects of California Employment Law: Traps for the Unwary**

September 2008

**California UPDATE Newsletter - Third Quarter 2008**

California UPDATE Newsletter

March 2008

**California UPDATE Newsletter - First Quarter 2008**

June 15, 2004

**Employers Face New Pitfall for Third-Party Harassment**

Los Angeles Daily Journal

## Events

**Retail Law Conference 2016: "Equal Value" -- International and California Litigation**

October 26, 2016 at 9:45am – 10:45am

Atlanta, GA

Hosted by: Retail Industry Leaders Association

**Predictive Scheduling & Other State & Local Employment Law Trends**

October 29, 2015 at 2:45am – 3:45am

JW Marriott San Antonio Hill Country

Hosted by: Retail Industry Leaders Association

**Employee or Independent Contractor: Managing and Litigating Employee Misclassification**

January 23, 2015 at 10:00am

Hosted by: Bridgeport Continuing Education

**California Litigation "Hot Spots"**



October 16, 2014

Hosted by: Retail Industry Leaders Association, Retail Law 2014

**11th Annual Hiring & Terminating Seminar: The Ins and Outs of Employment Law**

October 4, 2013

Hosted by: Sterling Education Services

**The Iskanian Case: Related Class Action and Arbitration Issues**

June 15, 2013

Loyola Law School

Hosted by: Los Angeles County Bar Association

**Arbitration Clauses, Class Action Bans and Concepcion**

August 9, 2012

The Westin San Francisco Market Street

Hosted by: Bridgeport Continuing Education

**Brinker: The Aftermath - Meal & Rest Breaks, Wage & Employment Law in California**

May 9, 2012

Marriott Marquis

Hosted by: Bridgeport Continuing Education

**NLRB's Expanding Agenda: Reinventing Itself Under the Obama Administration**

April 19, 2012

Hosted by: 11th Annual Labor and Employment Law 2012 Seminar

**Final Paychecks: How to Avoid Legal Risk With Accurate Calculation and Distribution**

March 16, 2012

Audioconference

Hosted by: Lorman Education Services

**Employment Law Update Seminar**

July 21, 2011

Embassy Suites Hotel

Hosted by: Sterling Education Services, Inc.

**To Use (or Not to Use) Experts**

March 25, 2011

Le Méridien

Hosted by: Bridgeport Continuing Education: Working with and Deposing Experts

**Injunctive Relief for the Hiring Party**

November 12, 2010

San Francisco Marriott Union Square

Hosted by: Bridgeport Continuing Education: Litigating Trade Secret & Employee Mobility Claims

**9th Annual San Francisco Class Action Litigation Conference**

August 12, 2010

Marriott Marquis Hotel

Hosted by: Bridgeport Continuing Education

### **Litigating Discrimination and Harassment Claims**

June 25, 2010

JW Marriott

Hosted by: Bridgeport Continuing Education

## **News**

October 27, 2017

### **Party City Workers Win Several Cert. Bids in Wage Row**

Law360

June 7, 2017

### **Fox Trial Team Prevails in Complex Employment Case for Party City**

December 2, 2015

### **Iskanian Judge puts Arbitration First, PAGA Claim Second**

Daily Journal

August 3, 2015

### **People on the Move**

BASF Bulletin

July 30, 2015

### **If Enforceable, State Bill Could Sharply Cut Workplace Arbitration Agreements**

Daily Journal

June 3, 2015

### **Top Labor & Employment Lawyers**

Daily Journal

February 23, 2015

### **Calif. High Court Could Unleash Rest Day Lawsuits**

Law360

August 28, 2014

### **Domino's Case Shields Franchise Parents, Boosts Industry**

Law360

August 8, 2014

### **5 Steps for Franchisors to Avoid Joint Employer Claims**

Law360

July 21, 2014

### **The Biggest California Cases Of 2014: Midyear Report**

Law360



June 24, 2014

**Arbitrate pay disputes, California Supreme Court says**  
San Francisco Chronicle

June 24, 2014

**California Justices Back Class Action Waiver But Decide a PAGA Claim Is Not Preempted**  
Bloomberg BNA

June 23, 2014

**Calif. High Court OKs Waivers, Except for PAGA**  
Law360

April 28, 2014

**Fox Trial Team Successful in \$1.5M Trade Secret Misappropriation Case**

April 9, 2014

**David Faustman Argues Before the California Supreme Court in Landmark Labor and Employment Case**

April 3, 2014

**Concepcion Doesn't Nix Class Waiver Bar, Calif. Justices Told**  
Law360

April 3, 2014

**Bending to 'Concepcion,' State Justices Likely To Hand Win to Employers**  
The Recorder

April 2, 2014

**Calif. High Court To Mull Fate of Employment Class Actions**  
Law360

January 1, 2014

**California Cases To Watch in 2014**  
Law360

December 21, 2012

**Concepcion Doesn't Doom Limo Driver Class, Calif. Court Told**  
Law360

September 20, 2012

**Calif. High Court To Eye Class Waiver In Wages Case**  
Law 360

August 17, 2012

**Case May Give Calif. High Court Clear Shot At Employer Arbitration**  
Law 360

June 8, 2012

**As Concepcion Interpretations Roll On, a Win for California Employers**  
Thomson Reuters News & Insight

June 5, 2012

**Calif. Ruling Shakes Up Employment Class Waiver Landscape**

Law360

April 1, 2011

**Marketers Fear Spread of CA ZIP Code Rules**

Direct Marketing News

February 24, 2011

**Unite Here Local 2 Refuses To Extend Restaurant Contract at SFO Airport**

San Francisco Sentinel

February 16, 2011

**California Ruling Sets Off More Credit Card Suits**

CNBC