

Ernest M. Malaspina

Deputy Managing Shareholder

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- **Industries**

- Banking & Financial Services
- Cannabis
- Food & Beverage
- Industrial & Manufacturing
- Retail
- Technology

- **Services**

- Employment & Labor Law
- Litigation

Overview

Ernie is a member of Hopkins & Carley's Employment & Labor Law Practice in the San Jose office and serves as the firm's Executive Vice President. He previously served as Chair of Hopkins & Carley's Litigation Department for more than 10 years.

Ernie advises private and public sector employers on a wide range of employment issues, including:

- Hiring practices
- Employment policies and procedures
- Wage and hour compliance
- Employee discipline
- Discrimination
- Harassment
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Retaliation

- Wrongful discharge
- Unfair competition and protection of trade secrets
- Effective strategies to avoid litigation

In addition, Ernie represents clients in the litigation of a wide range of complex employment disputes involving claims of wrongful termination, discrimination, harassment, retaliation, employee embezzlement, breach of contract, as well as single plaintiff and class action wage and hour controversies, among other disputes.

Experience

- Won summary judgment in state court, a ruling that survived scrutiny through two appeals, after a public sector employee sued 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.
- Developed and presented comprehensive seminars directed to high level managers of a publicly traded, unified business communications company regarding pertinent employment law issues as part of the company’s ongoing risk management program.

Professional Activities

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- History San Jose, Past Board Member
- Santa Clara Bar Association

Bar Admissions

- State Bar of California (1997)

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 Eastern District of California
- U.S. Court of Appeals for the Ninth Circuit
- All California state courts

Education

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