

Daily Journal

OCTOBER 20, 2021

TOP BOUTIQUES IN CALIFORNIA 2021



**RUDY
EXELROD
ZIEFF &
LOWE
LLP**

SAN FRANCISCO

PLAINTIFF-SIDE
EMPLOYMENT LAW

Left to Right: Chaya M. Mandelbaum, Erin M. Pulaski, David A. Lowe, John T. Mullan and Michelle G. Lee • JANA AŠENBRENNEROVÁ/SPECIAL TO THE DAILY JOURNAL

Managing partner David A. Lowe joined the firm in the mid-'90s as founding partners Mark S. Rudy, Steven G. Zieff and Alan B. Exelrod were forging the then-novel field of plaintiff-side employment law.

They grabbed headlines in 1994 with a landmark sexual harassment case, representing a recently-hired legal secretary, Rena Weeks, in claims against a powerful rainmaking partner, Martin R. Greenstein, at the world's then-largest law firm, now Baker McKenzie.

A San Francisco jury's \$6.9 million punitive damages award against the firm—a lesser punitive sum was affirmed on appeal, along with additional compensatory damages and punitives against Greenstein—established that employers can be held liable for failing to rein in discrimination and harassment at work. *Weeks v. Baker & McKenzie*, A068499 (1st DCA, of. Filed May 4, 1998).

Lowe said there is a through line from that blockbuster outcome that extends directly to the firm's current matters, which include the recent

class certification in a California Equal Pay Act case against Oracle America Inc. and a \$22.5 million settlement last year in gender discrimination claims against Pinterest Inc.

"It's been exciting to have been on the forefront of employment law at the time the Baker & McKenzie litigation was one of the highest-profile cases in the country," Lowe said. "The message behind our seven million dollar verdict was not that the harassment was so severe, but that the employer failed to step in and stop a repeating pattern of harassing conduct. Baker knew but looked the other way, and that message has reverberated."

Rudy Exelrod now has five partners, including Lowe, John T. Mullan, Chaya M. Mandelbaum, Michelle G. Lee and Erin M. Pulaski. Zieff, who pioneered the use of class actions to litigate wage and hour disputes and worked on the groundbreaking *Pao v. Kleiner Perkins* jury trial, retired to become of counsel as did Exelrod. Rudy is now an employment law mediator.

Along the way to its current successes, Lee and Exelrod took on the high-profile representation of Ellen Pao in her resonate but ultimately unsuccessful struggle to persuade a jury of gender discrimination claims against a prominent venture capital firm, in a 2015 trial widely believed to have had a positive impact on Silicon Valley culture. *Pao v. Kleiner Perkins Caufield & Byers LLC*, CGC-12-520719 (S.F. Super. Ct., filed May 10, 2012).

"The verdict was not what we had hoped," Lee said, "but Pao succeeded in getting a powerful story told."

Last year, the firm achieved the largest public settlement in a single plaintiff gender discrimination case in the Pinterest matter. The company's former chief operating officer, Francoise Brougher, alleged she was fired for calling out sexist comments by another executive. The company did not admit liability in agreeing to the deal. *Brougher v. Pinterest Inc.*, CGC-20-585888 (S.F. Super. Ct., filed Aug. 11, 2020).

"That case was similar to Ellen Pao's in that it challenged how women experience gender discrimination even at the most senior levels of their companies and then experience retaliation when they speak up," Lowe said.

Currently, the firm and co-counsel have obtained a landmark class certification in a California Equal Pay Act case against Oracle, believed to be the first such class certified in the state, and then defeated summary judgment. In early October, the court denied a defense decertification motion. Three female employees claim Oracle paid its female workers less than males in the same positions. *Jewett v. Oracle America Inc.*, 17-CV-02669 (S. Mateo. Co. Super. Ct., filed June 16, 2017).

"One reason I wanted to work here from the first is that the firm uses the class action device to protect worker rights," Lowe said. "We are pushing boundaries."

— John Roemer