
Lafayette & Kumagai

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Lafayette & Kumagai LLP
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Lafayette & Kumagai LLP is a boutique litigation firm located in Northern California. Established in 1994, the firm has earned a reputation for excellence with a proven track record of successfully representing its clients in all aspects of litigation. We take pride in the recognition we receive from our clients and the legal community for our litigation and trial skills. We have extensive experience in both state and federal courts throughout California and have a distinguished record for motion practice, jury trials and appeals. Lafayette & Kumagai is one of few minority-owned firms to argue before the United States Supreme Court. Clients trust our handling of high-profile cases with media exposure.

Lafayette & Kumagai received the 2011 Minority-Owned Law Firm Client Service Award, presented by the California Minority Counsel Program for outstanding client service. The firm was listed in “Litigation Kings” for 2012 and in “Who Represents America’s Biggest Companies?” for 2008, 2010, 2011, 2012, 2014 and 2015, in *Corporate Counsel* magazine’s annual report on the law firms most used by the *Fortune* 100. For 2013 and 2015, Lafayette & Kumagai was recognized as a “Go-To Law Firm for the Top 500 Companies” for our Labor & Employment practice. Over the past two years we have continued our history of successful litigation strategies. In addition to settling a number of cases, we obtained a defense decision in a pregnancy discrimination arbitration on behalf of a *Fortune* 500 retailer; prevailed in Motions for Summary Judgment in 5 employment matters; and won an appeal on behalf of a *Fortune* 100 company in an employment discrimination and retaliation case. In the latter, the court clarified what is required to show pretext and temporal proximity in cases where an employee is terminated for poor performance, helping all California employers. The court’s discussion on the use of “me too” declarations is also most helpful for employers regarding pretext. All of this is on top of our track record of other recent victories:

- obtaining a defense verdict in a constructive discharge trial in San Francisco;
- obtaining a defense verdict in a high profile whistleblower trial;

- obtaining a defense verdict in a sexual harassment and retaliation trial involving three plaintiffs;
- obtaining a nonsuit in an age discrimination/termination trial, in Contra Costa County Superior Court;
- obtaining a Judgment as a Matter of Law before Judge Charles Breyer of the United States District Court for the Northern District of California in a disability discrimination and failure to accommodate case;
- defeating two Motions for Class Certification, thereby successfully resolving two major wage and hour class actions;
- prevailing in a number of Motions for Summary Judgment, including two age discrimination cases brought on behalf of attorneys against the legal departments of two of our corporate clients; and
- successfully representing the client on appeal in one such age discrimination case, resulting in a published opinion, *Reeves v. MV Transportation, Inc.*, 186 Cal.App.4th 666 (2010).

Our practice also includes successful representation of clients in mediation, arbitration, other ADR procedures and hearings before administrative agencies.

Our clients include *Fortune* 500 companies and governmental entities. The relationships with our clients are long standing and built upon a foundation of trust through open and honest communication and outstanding results. We closely monitor the management of cases from their commencement and continuously re-evaluate them throughout the litigation process. Our goal is to find the best solution for a successful outcome. We place a high priority on superior work product and creative resolutions to cases at the earliest possible stage.

LABOR AND EMPLOYMENT

Lafayette & Kumagai maintains a significant labor and employment practice representing management in both the public and private sectors. Representative corporate clients include AT&T, Denny's, Inc., Tyco International, Inc., McKesson Corporation, Macy's, Inc., Shell Oil Company, Pacific Gas and Electric Company and Sutter Health.

Governmental clients include the East Bay Municipal Utility District, the San Francisco Housing Authority and the City of Oakland.

The firm provides legal services in cases involving all aspects of employment litigation, including wrongful termination, harassment, discrimination, reasonable accommodation, retaliation, wage and hour, class actions and restrictive covenants. The firm has been particularly successful in prevailing in cases by dispositive motions.

ERISA LITIGATION

Lafayette & Kumagai has substantial experience handling ERISA litigation.

COMMERCIAL LITIGATION

Lafayette & Kumagai's attorneys have substantial experience handling complex commercial and bankruptcy litigation. The firm has represented clients in cases involving the Business and Professions Code Section 17200, unfair business practices actions, contract disputes, ADA access cases, anti-trust and unfair business practices class actions. The firm has represented Viacom, Inc., MTV Network, Johnson & Johnson, San Francisco Housing Authority, Denny's, Inc. and Sutter Health in these types of matters.

TOXIC EXPOSURE, PRODUCTS LIABILITY AND ENVIRONMENTAL LAW

The firm's practice includes representation in environmental, products liability and toxic exposure cases ranging from asbestos defense to welding rod litigation. The firm represents major clients that include Shell Oil Company.

CONSUMER CREDIT LITIGATION

Lafayette & Kumagai has substantial experience handling consumer credit litigation and currently handles Fair Credit Reporting Act ("FCRA"), Federal Debt Collections Practices Act ("FDCPA") and Telephonic Collection Practices Act ("TCPA") on behalf of a major retailer.

PUBLIC ENTITY REPRESENTATION

Lafayette & Kumagai handles complex cases for public entities. The firm argued and won an appeal in the United States Supreme Court on behalf of the Oakland Housing Authority in an action challenging the constitutionality of the agency’s “one strike” rule, which enables the agency to evict a tenant for use of illegal drugs on the premises by the tenant, its family members or guests. *HUD v. Rucker*, 535 U.S. 125 (2002). The firm has represented other entities in commercial disputes and Qui Tam proceedings, including providing a defense involving Governor Jerry Brown, then mayor of the City of Oakland.

TRIAL PRACTICE

Lafayette & Kumagai is well-known for its strong trial practice. The firm’s attorneys have extensive experience preparing cases for trial from the commencement of litigation, but often are brought in midstream to try cases on behalf of clients such as CBS, Viacom, McKesson Corporation, the Regents of the University of California and Shell Oil Company.

APPELLATE PRACTICE

Lafayette & Kumagai has handled a number of high profile appeals, including appeals at the California Courts of Appeal, Ninth Circuit Court of Appeals and the United States Supreme Court.

CLASS ACTIONS

The firm handles class action wage and hour cases and regulatory rate cases for Shell Oil Company, Pacific Gas and Electric Company and Viacom, Inc.

REPRESENTATIVE CLIENTS

AC Transit
Aetna Life Insurance Company
Alameda County
AT&T Services, Inc.
Bank of America
CalPERS
CBS Broadcasting, Inc.
City of Oakland
Coca-Cola
Comcast Cable
Denny's, Inc.
DirecTV Group, Inc.
East Bay Municipal Utility District
E.I. du Pont de Nemours & Company
GlaxoSmithKline
Home Depot
Johnson & Johnson
Kraft Foods Global, Inc.
Macy's, Inc.
Marin Housing Authority
McDonald's
McKesson Corporation
Microsoft Corporation
MTV Network
MV Transportation, Inc.
Nationwide Mutual Insurance Company
NBCUniversal
Pacific Bell Telephone Company
Pacific Gas and Electric Company
Prudential
Sedgwick Claims Management Services
Shell Oil Company
Silliker, Inc.

Sutter Health
Tyco International, Ltd.
United Continental Holdings, Inc.
United Parcel Service, Inc.
Viacom, Inc.
Xerox Corporation

Gary Lafayette is a graduate of Dartmouth College and the University of California at Berkeley, School of Law (Boalt Hall). He interned with Justice Frank Newman of the California Supreme Court, and after graduating from law school in 1979, commenced his practice with the law firm of Pettit & Martin. He worked with the firm of Feldman, Waldman & Kline before joining, as a partner, the firm of Alexander, Millner & McGee, predecessor to McGee, Lafayette, Willis & Greene.

Mr. Lafayette has an AV Preeminent rating from Martindale-Hubbell, and currently serves as a member of the Editorial Advisory Board of *California Lawyer* magazine, the Board of Directors of the National Association of Minority and Women Owned Law Firms and the Executive Committee of the National Employment Law Council. He was a lawyer-representative to the U.S. District Court for the Northern District of California and is a past member of the San Francisco Inns of Court, the Executive Committee of the Litigation Section of the San Francisco Bar Association and the U.S. District Court Northern Magistrate Review Committee. In his years of practice, he has tried, and prevailed on, a number of complex and document-intensive cases. In the past five years, he has narrowed the scope of his practice to emphasize labor and employment, commercial litigation and environmental matters.

Called a “big gun” and “high profile” by the *San Francisco Chronicle* and the *Recorder*, Mr. Lafayette is often sought to handle extremely complicated and sensitive matters, and to take over cases from other firms, particularly cases that appear headed for trial. He has handled a number of high profile and high exposure cases for *Fortune* 500 companies as well as institutional and public entity clients that include Viacom, Inc., Governor Jerry Brown and the San Francisco Housing Authority. In 2002, Mr. Lafayette received the *California Lawyer* Attorney of the Year Award and the Charles Houston Bar Association’s Clinton W. White Advocacy Award. He was featured in the *American Bar Association Journal* showcasing the talents of minority lawyers (“Distinction with a Difference,” *ABA Journal*, April 2003). Mr. Lafayette has been selected as a Fellow of the Litigation Counsel of America and has also been recognized in the Northern California *Super Lawyers*® list for 2004, 2006-2012 and 2014-2017. A highly regarded trial attorney, Mr. Lafayette has tried in excess of thirty cases to verdict. Eighteen of his cases have resulted in published opinions, including a significant Supreme Court housing case, *HUD v. Rucker*, 535 U.S. 125 (2002).

Mr. Lafayette is admitted to practice before all courts of the State of California, the United States District Court, Northern, Eastern and Central Districts, the United States Court of Appeals, Ninth Circuit and the United States Supreme Court.

PUBLISHED OPINIONS

HUD v. Rucker, 535 U.S. 125 (2002)

Embury v. King, 179 Fed. Appx. 409 (9th Cir. 2006)

Embury v. King, 361 F.3d 562 (9th Cir. 2004)

Lifescan, Inc. v. Premier Diabetic Services, Inc., 363 F.3d 1010 (9th Cir. 2004)

U.S. ex rel. Honeywell, Inc. v. San Francisco Housing Authority, 83 Fed.Appx. 181 (9th Cir. 2003)

Rucker v. Davis, 304 F.3d 904 (9th Cir. 2002)

Rucker v. Davis, 237 F.3d 1113 (9th Cir. 2001)

Rucker v. Davis, 203 F.3d 627 (9th Cir. 2000)

In re Unicom Corp., 21 F.3d 1116 (9th Cir. 1994)

In re Berr (Berr v. FDIC), 172 BR 299 (9th Cir. BAP 1994)

Embury v. King, 191 F.Supp.2d 1071 (2001)

Honeywell v. San Francisco Housing Authority, 164 F.Supp.2d 1130 (2001)

Kaiser Permanente Employees Pension Benefit Plan v. Bertozzi, 849 F.Supp. 692 (1994)

Reeves v. MV Transportation, Inc., 186 Cal.App.4th 666 (2010)

Cerna v. City of Oakland, 161 Cal.App.4th 1340 (2008)

Wellpoint Health Networks, Inc. v. Superior Court of Los Angeles County, 59 Cal.App.4th 110 (1997)

Donohue v. San Francisco Housing Authority, 16 Cal.App.4th 658 (1993)

Donohue v. San Francisco Housing Authority, 281 Cal.Rptr. 446 (1991)

PUBLICATIONS

Co-author, "Bench Trials," in *California Trial Practice: Civil Procedure During Trial*, 3rd ed., ed. Linda Compton et al., (Berkeley, CA: CEB, 1994)

Co-author, *Recent Developments in Arbitration of Employment Discrimination Disputes*, National Employment Law Council, 1998

SPEAKING ENGAGEMENTS

"Social Media and Litigation," National Employment Law Council Annual Conference, April 2017

"Parachuting: Jumping In At The Last Minute," National Association of Minority and Women-Owned Law Firms Business Meeting, February 2017

"Small Firm Practice, Big Firm Success," American Bar Association Professional Success Summit, November 2016

"Winning Strategies for Litigation Employment Cases," National Bar Association Labor & Employment Section Annual Conference, October 2016

"Challenging Experts," National Association of Minority and Women-Owned Law Firms Business Meeting, February 2016

"How to Build a Book of Business," National Bar Association 90th Annual Convention, July 2015

"Litigation Skills Theatre," American Bar Association Labor & Employment Law 8th Annual Conference, October 2014

"The Art of Persuasion: Influencing Juries," National Association of Minority and Women-Owned Law Firms Annual Meeting, September 2014

"Technology in the Courtroom," Alameda County Bar Association 5th Annual Labor & Employment Symposium, September 2014

"What's the Story? Winning Strategies for Employment Cases," National Employment Law Council Annual Conference, April 2014

"California Dreamin': How to Avoid the California Litigation Lottery," Macy's, Inc., October 2013

“Benefits & Liabilities of Conducting Background Checks on Employees & Candidates,” National Association of Minority and Women-Owned Law Firms Annual Meeting, September 2013

“Dos and Don’ts for Newer Attorneys,” Bar Association of San Francisco CLE Program, July 2013

“The New Gold Rush: California’s Latest Wave of Laws Favoring Employees,” National Employment Law Council Annual Conference, April 2013

“So You’ve Been Sued: What Next?,” County Counsels’ Association of California Employment Law Fall 2011 Study Section Conference, November 2011

“Conducting a Corporate Investigation,” Litigation Counsel of America Fall Conference, October 2011

“Jury Selection in a Diverse and Changing Environment,” National Association of Minority and Women-Owned Law Firms Annual Meeting, September 2011

“Conducting a Corporate Investigation,” National Association of Minority and Women-Owned Law Firms Annual Meeting, October 2010

“Winning the Certification Battle: Analyzing Recent Rulings, Certification and Decertification Grounds to Craft a Strategy for Current and Future Cases,” American Conference Institute’s 10th Advanced Forum on Wage & Hour Claims and Class Actions, September 2010

“Preferred Vendor Lists,” National Association of Minority and Women-Owned Law Firms 2010 March Business Meeting, March 2010

“Trial Demonstrations: Direct and Cross of Expert Witnesses,” Annual Meeting of the State Bar of California, Labor & Employment Law Section, October 2009

“Wage & Hour Class Action Panel,” National Association of Minority and Women-Owned Law Firms Annual Meeting, October 2009

“Change You Can Believe In: Employment Rights During the Obama Years,” National Employment Law Council Annual Conference, April 2009

“How to Avoid (and if Necessary) Litigate a Retaliation Claim,” National Bar Association Labor & Employment Law CLE Conference, March 2009

“Maximizing Minority Law Firm Profitability: Strategies and Business Models,” California Minority Counsel Program Annual Business Conference, October 2008

“Trends in Wage and Hour Class Actions,” Minority Corporate Counsel Association
7th Annual CLE Expo, March 2008

“Ethics” and “Advanced Litigation Trial Skills II – Mock Trial & Clinic,” National
Employment Law Council Annual Conference, May 2007

“Advanced Trial Skills II – Judge, Jury and Using Technology,” National
Employment Law Council Annual Conference, May 2006

“Evidence in Employment Cases: Comparator Evidence, Stray Remarks, me Too
Evidence, Rule 35 Medical Exams, Prior Sexual Conduct, and Related Admissibility
Issues,” American Bar Association Section of Labor & Employment Law: National
Conference on Equal Employment Opportunity Law, March 2006

“Diversity’s Impact on Employment Litigation,” American Bar Association Annual
Meeting – Section of Labor & Employment Law, August 2005

“The Latest Word on ‘E-Discovery Issues,’” National Employment Law Council
Annual Conference, April 2005

“Courtroom Technology Panel – Litigation and Other Databases and Other Tools
and Developments, How to Preserve Technological Information for Appeal,”
National Employment Law Council Annual Conference, April 2004

“Technology – New Tools for Changing Times” and “Litigation Techniques – Nuts
and Bolts,” National Employment Law Council Annual Conference, April 2003

“3 Ounces of Prevention – Workplace Violence,” California Minority Council
Program-Employment Law Roundtable, September 2001

“21st Century Discovery-Electronic Evidence,” National Employment Law Council
Annual Conference, April 2001

“Debunking Junk: Daubert in Action,” U.S. District Court for the Northern District
of California Judicial Conference, April 2001

“A Roundtable – Brainstorming the Difficult Cases,” National Employment Law
Council Annual Conference, April 2000

“Trends in the Northern District Docket and Jury Pool,” U.S. District Court for the
Northern District of California Judicial Conference, April 1999

“Resolving Disputes – Finding the Settlement Bridge,” National Employment Law
Council Annual Conference, April 1998

Susan Kumagai is a founding partner of the firm. She graduated from the University of California at Berkeley and the University of California at Davis School of Law (King Hall). Ms. Kumagai heads the labor and employment department of the firm.

Ms. Kumagai has extensive experience practicing in both federal and state courts. She specializes in labor and employment representing management in the areas of discrimination, harassment, retaliation, whistle-blower, wrongful discharge claims and ERISA.

Ms. Kumagai serves on the Board Development Committee of the Bar Association of San Francisco (“BASF”) and previously served as a member of the BASF Board of Directors and as a member of its Nominating and Judiciary Committees. In 2015, Susan Kumagai was inducted to the California Minority Counsel Program (“CMCP”) Diversity Leader Hall of Fame, in recognition of her contributions to diversity in the legal profession and long-term involvement in the organization. Ms. Kumagai is an active member of the National Asian Pacific American Bar Association Solo/Small Firm Committee. She has been recognized in the Northern California *Super Lawyers* list for 2009 through 2017 and has an AV Preeminent rating from Martindale-Hubbell.

Ms. Kumagai is a frequent speaker for such organizations as the California Continuing Education of the Bar, the National Employment Law Council, the CMCP and the Minority Corporate Counsel Association. She is a former member of the CMCP’s Steering Committee and its Executive Committee, was the Chair of the 2002 CMCP Annual Business Conference and was a Co-Chair for its 2008 Conference.

Ms. Kumagai is admitted to practice before all courts of the State of California, the United States District Court for all Districts of California, the United States Court of Appeals, Ninth Circuit and the United States Supreme Court.

PUBLISHED OPINIONS

HUD v. Rucker, 535 U.S. 125 (2002)

Alvis v. AT&T, 377 Fed.Appx. 673 (9th Cir. 2010)

Embury v. King, 179 Fed.Appx. 409 (9th Cir. 2006)

Embury v. King, 361 F.3d 562 (9th Cir. 2004)

Wellpoint Health Networks, Inc. v. Superior Court of Los Angeles County, 59 Cal.App.4th 110 (1997)

PUBLICATIONS

Co-author, “Bench Trials,” in *California Trial Practice: Civil Procedure During Trial*, 3rd ed., ed. Linda Compton et al., (Berkeley, CA: CEB, 1994)

SPEAKING ENGAGEMENTS

“What Employers Should Know about the Demise of DOMA and the Recognition of Same-Sex Marriages for Employee Benefits Purposes,” National Association of Minority and Women-Owned Law Firms Annual Meeting, September 2014

“California Dreamin’: How to Avoid the California Litigation Lottery,” Macy’s, Inc., October 2013

“Business Development Strategies for Minority- and Women-Owned Law Firms,” Minority Corporate Counsel Association 10th Annual Creating Pathways to Diversity Conference, November 2007

“Advanced Trial Skills II – Winning on Paper: Jury Instructions, Motions in Limine and Perfecting the Record for Appeal,” National Employment Law Council Annual Conference, May 2006

“Evaluating Discrimination and Termination Lawsuits,” Minority Corporate Counsel Association 4th Annual CLE Expo, March 2005

Diane Kong

Of Counsel

Diane Kong received her B.A. from the University of California at Berkeley and her Juris Doctorate from the University of San Francisco School of Law. She was a clerk for the Office of the U.S. Attorney, Northern District of California. Upon graduation, Ms. Kong joined Arnelle, Hastie, McGee, Willis & Greene in San Francisco as an associate, serving as litigation team leader and California counsel on consumer warranty matters for Ford Motor Company. Prior to joining Lafayette & Kumagai LLP, she was a senior associate in the labor and employment department at Sheppard, Mullin, Richter & Hampton in San Francisco.

Ms. Kong has litigated cases through mediation, arbitration and trial in both state and federal courts with an emphasis on defending manufacturers in product liability matters, defending private sector employers against charges of discrimination, harassment, retaliation and wrongful termination and defending business establishments against charges of discrimination in violation of state and federal civil rights statutes.

Among her accomplishments, Ms. Kong has successfully represented Denny's, Inc. against charges of discrimination. Ms. Kong has been recognized in the Northern California *Super Lawyers* list for 2014 through 2017.

Ms. Kong is admitted to practice before all courts of the State of California, the United States District Court, Northern, Eastern and Central Districts and the United States Court of Appeals, Ninth Circuit.

PUBLISHED OPINIONS

Harrison v. Denny's Restaurant, Inc., 1997 WL 227963 (N.D. Cal.)

Jasmine L. Anderson

Attorney

Jasmine L. Anderson earned her Juris Doctorate from University of California, Berkeley School of Law (Boalt Hall) in 2007. While in law school, she was an editor for the *Berkeley Journal of African-American Law and Policy*, and served as Communications Chair for the American Trial Lawyers Association and as Vice-President of the Law Students of African Descent. In addition, she was a Moot Court Board Member and Competitions Coach and member of the Boalt Hall Police Review Advocates. Ms. Anderson earned a Bachelor of Science at Florida State University, where she graduated magna cum laude, in Criminology, with a minor in African-American Studies. As an undergraduate, Ms. Anderson received the honors of National Society of Collegiate Scholars, Florida State University Academic Scholarship, Bright Futures Scholarship, Phi Eta Sigma Honor Society, and Golden Key Honor Society.

Prior to joining Lafayette & Kumagai, Ms. Anderson was an associate with King & Spalding LLP, and a Labor & Employment Associate with Seyfarth Shaw LLP and Shaw Valenza LLP in Sacramento, CA. More recently, she was a Labor & Employment Associate at Hopkins & Carley, ALC in San Jose, CA, where she managed all aspects of labor and employment law matters, including litigation, advice and counsel, and trainings. In addition, Ms. Anderson served as Corporate Counsel-Global Employment & Immigration for a publicly-traded Silicon Valley technology company.

Ms. Anderson's current practice at Lafayette & Kumagai includes all aspects of civil defense litigation, with an emphasis on employment matters. Ms. Anderson has defended claims involving discrimination, harassment, retaliation and wrongful termination. She has prevailed in four Motions for Summary Judgment. Ms. Anderson has extensive experience litigating single-plaintiff and wage & hour cases, including first-chairing a state court bench trial regarding an appeal of a labor commissioner hearing involving a joint employer issue, and second-chairing a two-week employment arbitration.

Ms. Anderson frequently conducts employment law training sessions for organizations including the Marin Employers Advisory Council ("MEAC"), the Sacramento Area Human Resources Association, the Santa Cruz Chamber of Commerce and the Sacramento Employers Advisory Council, and has written

numerous articles on employment law topics for *The Daily Recorder*. Ms. Anderson serves as a Board Member of Black Women Lawyers Association of Northern California and the MEAC, and previously served on the board of the Sacramento Employers Advisory Council and the Sacramento Area Human Resources Association. She is a member of the Labor & Employment Section of the State Bar of California, the Santa Clara County Bar Association, the California Minority Counsel Program and the National Employment Law Council Pipeline Initiative.

Ms. Anderson is admitted to practice before all courts of the State of California, the United States District Court for the Northern, Central and Eastern Districts of California, and the United States Court of Appeals, Ninth Circuit.

PUBLICATIONS

Co-author, "California Law Protects Employee Political Activity," *The Daily Recorder*, May 7, 2014.

Co-author, "New FMLA Regulations," *The Daily Recorder*, May 2, 2014.

Co-author, "When Must Employers Provide a Suitable Seat?," *The Daily Recorder*, February 11, 2014.

Co-author, "New California Employment Laws for 2014 (Part 2)," *The Daily Recorder*, December 9, 2013.

Co-author, "New California Employment Laws for 2014 (Part 1)," *The Daily Recorder*, November 28, 2013.

Co-author, "Assistive Animals in the Workplace," *The Daily Recorder*, September 5, 2013.

Co-author, "Bag Checks May Cost Employers More Than Stolen Merchandise," *The Daily Recorder*, June 27, 2013.

Co-author, "Employment Law Trends," *CalChamber*, May 2013.

Co-author, "Pot in the Workplace," *The Daily Recorder*, January 23, 2013.

Co-author, "New Laws for California Employers – Part 2," *The Daily Recorder*, November 28, 2012.

Co-author, "New Laws for California Employers – Part 1," *The Daily Recorder*, November 14, 2012.

Co-author, “California Supreme Court Employment Law Decisions 2011-2012 - Part 2,” *The Daily Recorder*, September 4, 2012.

Co-author, “California Supreme Court Employment Law Decisions 2011-2012 - Part 1,” *The Daily Recorder*, August 21, 2012.

Co-author, “Keeping Up With the EEOC,” *The Daily Recorder*, June 26, 2012.

Co-author, “A Review of Employment Law Developments,” *CalChamber*, June 2012.

Co-author, “Understanding the New NLRB Election Procedures,” *The Daily Recorder*, April 17, 2012.

SPEAKING ENGAGEMENTS

“Pay Them Now, Or Pay Them Later: An Overview of Key Issues in Wage and Hour Law for Employers,” Marin County Employers Advisory Council, March 2017.

“Leaves of Absence: Navigating the alphabet soup,” Marin Employers Advisory Council, November 2016.

“Pay Them Now, Or Pay Them Later: An Overview of Key Issues in Wage and Hour Law for Employers,” Marin County Employers Advisory Council, July 2016.

Brian H. Chun

Senior Associate

Brian H. Chun graduated from Stanford University in 1997 with a degree in Philosophy. He earned his Juris Doctorate in 2001 from Northwestern University, where he was a Senior Articles Editor for the *Journal of Criminal Law & Criminology*.

Prior to joining Lafayette & Kumagai, Mr. Chun worked as an associate at the law firm of Bingham McCutchen LLP in San Francisco where he practiced complex commercial litigation. Mr. Chun’s current practice focuses on civil litigation matters with an emphasis on employment law. Mr. Chun has been 2nd chair for three employment litigation trials with Mr. Lafayette, including a three-month sexual harassment trial involving three plaintiffs, in which the firm won a defense verdict for its client, as well as a District Court employment trial in which the firm obtained a Judgment as a Matter of Law. Mr. Chun has prevailed in three Motions for Summary Judgment in employment matters since coming to the firm. In addition, he has handled a number of contract and union arbitrations. Mr. Chun has handled

employment litigation matters on behalf of *Fortune* 500 clients AT&T Services, Inc., Pacific Gas and Electric Company, Comcast, Microsoft Corporation, Home Depot, Prudential Insurance Company and Macy's, Inc.

Mr. Chun has been recognized in the Northern California *Rising Stars*[®] list for 2010 through 2015. He is a member of the Bar Association of San Francisco, the Asian American Bar Association of the Greater Bay Area and the Korean American Bar Association of Northern California. Mr. Chun is admitted to practice before all courts of the State of California, the United States District Court for the Northern and Central Districts of California and the United States Court of Appeals, Ninth Circuit.

Alan P. Jacobus

Attorney

Alan Palmer Jacobus received his Juris Doctorate, cum laude, from Tulane University School of Law and his Bachelor of Arts, summa cum laude, in classical languages (Latin and Greek) from Tulane University in New Orleans, Louisiana.

At Lafayette & Kumagai LLP, Mr. Jacobus's practice includes employment litigation and commercial litigation, including class action defense, tort liability litigation, insurance coverage litigation, and Fair Credit Reporting Act litigation. Before joining Lafayette & Kumagai, Mr. Jacobus was a Partner at Carroll, Burdick & McDonough in San Francisco. He was an associate and partner at Tressler, Soderstrom, Maloney & Priess in Chicago and Costa Mesa, California and an Associate at Karbal, Cohen, Economou, Silk & Dunne in Chicago.

While Mr. Jacobus's practice over the past decade has largely centered on high risk, high value insurance coverage litigation, he comes from a very broad civil and commercial litigation and trial background. He is a member of the bar in California, Illinois, and Louisiana, and he has tried jury trials to verdict in all three states. Several of Mr. Jacobus's cases have resulted in written opinions in trial courts and courts of appeal, and he has argued appeals in both state and federal appellate courts. His litigation experience ranges from Title VII discrimination and retaliation actions, to international intellectual property litigation, to surety and fidelity bond actions, to Retailers' Occupation Tax litigation, to general commercial and business litigation. Mr. Jacobus is also a skilled strategist and negotiator, who often negotiates favorable

settlements for his clients at appropriate points in the pre-litigation or litigation process.

Mr. Jacobus is a frequent publisher and lecturer on topics ranging from insurance coverage issues to product liability and successor liability topics, with over 20 major presentations and publications to his name. Mr. Jacobus is a current member of the Stafford Publications Insurance Law Advisory Board. He is an active member of the Defense Research Institute and volunteers with the AIDS Legal Referral Panel (ALRP) and the USDC Northern District of California Federal Pro Bono Project. Mr. Jacobus is fluent in Spanish.

Mr. Jacobus is admitted to practice before all courts of the States of California, Illinois and Louisiana, the United States District Court for all Districts of California, the Eastern District of Louisiana, the District of Arizona, the Northern District of Illinois, including the Trial Bar, and the United States Court of Appeals, Seventh and Ninth Circuits.

PUBLISHED OPINIONS

Pac. Coast Drilling Co. v. Farmers New World Life Ins. Co., 2016 WL 6678928 (Cal. App. Nov. 14, 2016)

Robinson v. Yousuf, 668 So. 2d 436 (La. App. 1996)

J.C.C. Food & Liquors v. United States, 133 F.3d 555 (7th Cir. 1998) (appellate counsel only)

PUBLICATIONS

Co-author with Eric J. Knapp, “Insurance and Class Actions: How the United States Supreme Court’s 2011 *Dukes*, *Concepción* and *Smith* Decisions Will Change the Way Insurance Class Actions Are Litigated,” *Mealey’s Litigation Report: Class Actions and in Mealey’s: Emerging Insurance Disputes*, May 2012.

“Recent Developments in Litigation Over the Non-Cumulation Condition,” *Coverage*, (ABA 2012).

Co-author with Kevin Glasgow, “Stranger Owned or Originated Life Insurance Policies: Problems and Solutions,” *Westlaw Journal—Insurance Coverage* (July 2011).

Co-author with Robert Binion, “Something Stricker This Way Comes: Dealing with the Medicare Secondary Payer Statute (And What Stricker Doesn’t Say),” *Bloomberg Law Reports, Health Law Reporter*, Vol. 3, No. 12 (December 2010).

“A ‘New’ Defense to Stacking: The Non-Cumulation Clause,” *Insurance Law Section, Defense Research Institute’s In-House Defense Quarterly*, (Winter 2008).

“Black Lung Bonds,” *Defense Research Institute’s For the Defense*, (September 2004).

“Analyzing Liability Insurance in Terms of Mold Coverage,” *Columns*, (September and October 2002).

“Analysis of the ‘Pay When Paid Defense’ After *Brown & Kerr v. St. Paul and Marine*,” published in *IADC Newsletter, Fidelity and Surety Committee* (July 1999).

SPEAKING ENGAGEMENTS

“Insurer’s Duty to Defend: Navigating Flexibility in the “Eight Corners” Rule, Withdrawal from an Ongoing Defense and More,” *Strafford Publications webinar*, August 2017

“Attorney-Client Privilege in Bad Faith Litigation,” *Strafford Publications webinar*, August 2017

“Depositions in Insurance Coverage and Bad Faith Insurance Litigation,” *Strafford Publications webinar*, February 2017

“Discovery in Bad Faith Insurance Litigation,” *Strafford Publications webinar*, August 2016

“Insurance Declaratory Judgment Actions and the Federal Abstention Doctrine,” *Strafford Publications webinar*, April 2016

“Depositions in Insurance Coverage and Bad Faith Insurance Litigation,” *Strafford Publications webinar*, February 2016

“Attorney-Client Privilege in Bad Faith Litigation: Pushing the Limits,” *Strafford Publications webinar*, October 2015

“Discovery in Bad Faith Insurance Litigation,” *Strafford Publications webinar*, June 2015

“30(b)(6) Depositions,” *Strafford Publications webinar*, March 2015

“Attorney-Client Privilege in Bad Faith Litigation: Pushing the Limits,” Strafford Publications webinar, March 2014

“Attorney-Client Privilege in Bad Faith Insurance Litigation: Asserting or Defending Against Implied Waiver of the Privilege,” Strafford Publications webinar, March 2013

“The Bodily Injury Concept in Liability Policies Revisited, 30 Years On,” Tucson ABA ICLC Seminar, February 2013

“Discovery in Bad Faith Insurance Litigation: Best Practices for Proving or Defending Claims,” Strafford Publications webinar, September 2012

“How much is that Policy Worth, Anyway?” ABA Section of Litigation, 2012 Insurance Coverage Litigation Committee CLE Seminar, March 2012

“Top Legal Developments: What You Need to Know to Keep Current,” Risk and Insurance Management Society (RIMS) Conference, May 2011

“Representing Insurers When Discoverability of Confidential Settlement Agreements Is at Issue,” paper presented at DRI’s Insurance Coverage and Claims Institute, March 2011

“Discoverability of Confidential Settlement Agreements in Insurance Coverage Disputes,” ABA Section of Litigation Insurance Coverage Litigation Committee CLE Seminar, March 2011

“Ethics Sessions: Can You Keep a Secret? Maybe Not: Exceptions to Traditional Attorney-Client Privilege and Work Product Protections in Insurance Coverage Disputes,” paper presented at Mealey’s Bad Faith Litigation Conference, September 2006

“Pig in a Poke? How Acquiring Companies Can Unwittingly Become Responsible for the Liabilities of Companies They Acquire,” Gas Technology Institute Natural Gas & LP Odorization Conference, July 2006

Key Concepts in General Liability Insurance Coverage for Construction Defects Presentation, October 2005

“Odor Fade and the Legal Duty to Warn,” paper presented at Gas Technology Institute’s Natural Gas & LP Odorization Conference, July 2005

“Contractual Liability Risk Transfer: Issues and Concerns Arising from Indemnity and Hold-Harmless Agreements,” paper presented at Gas Technology Institute’s Natural Gas & LP Odorization Conference, August 2004

“A Modern Analysis Under California Law of Punitive Damages Available for an Insurer’s ‘Bad Faith,’” June 2004

“Limiting a Paying Liability Insurer’s Total Loss Under California Law Through Policy Limits, Deductibles, Self-Insured Retentions, Allocation, Apportionment, Contribution, and Subrogation,” January 2004

“Strategies for Insurers Resisting the Prepackage Asbestos Bankruptcy Blitzkrieg,” paper presented at FETTI Conference, October 2003

“Common Pitfalls in the Assertion of the Sistership Exclusion as a Bar to Coverage Under Commercial General Liability Policies,” paper presented at ABA Insurance Coverage and Internet Litigation Committees Mid-Year Meeting, March 2002

Rebecca K. Kimura

Senior Associate

Rebecca K. Kimura earned a Bachelor of Arts at Columbia University, Barnard College, where she graduated cum laude, with honors in Economics. She received her Juris Doctorate from Cornell Law School in 1992. While in law school, she was a judicial intern in the U.S. District Court for the Southern District of New York.

Prior to joining Lafayette & Kumagai, Ms. Kimura was an attorney with the ACLU Children’s Rights Project, and later with Children’s Rights, Inc. More recently, she was an associate at Bassi, Martini, Edlin & Blum LLP, where she specialized in employment law, general business litigation and products liability.

Ms. Kimura's current practice at Lafayette & Kumagai includes all aspects of civil defense litigation and appellate work, with an emphasis on employment matters. Ms. Kimura has successfully brought 11 Motions for Summary Judgment, in addition to 4 other dispositive motions, since coming to the firm. Ms. Kimura has defended against wage and hour class actions, and claims involving discrimination, harassment, retaliation, wrongful termination and actions brought under the Employee Retirement Income Security Act.

Ms. Kimura is on the Executive Committee of the Litigation Section of the Bar Association of San Francisco, and on the Sponsorship Committee of the National Association of Minority & Women Owned Law Firms. She is admitted to practice before all courts of the States of California and New York, the United States District Court for the Northern, Southern and Eastern Districts of California and the Northern and Southern Districts of New York, and the United States Court of Appeals, Ninth Circuit.

PUBLISHED OPINIONS

Alvis v. AT&T, 377 Fed.Appx. 673 (9th Cir. 2010)

SPEAKING ENGAGEMENTS

“Maximizing Minority Law Firm Profitability: Strategies and Business Models,”
California Minority Counsel Program Annual Business Conference, October 2008