

MONDAY TUESDAY WEDNESDAY THURSDAY **TODAY**[Previous](#) [Next](#)[Bookmark](#) [Reprints](#)[Questions and Comments](#)[NEWS](#) [RULINGS](#) [VERDICTS](#)

Friday, February 28, 2014

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Changing of the Guard

By Laura Hautala

SAN FRANCISCO - The lawyers at Rudy, Exelrod, Zieff & Lowe have a reputation as innovators. Three of the firm's name partners were involved in early lawsuits that paved the way for claims now filed on a daily basis by employment attorneys in the state: sexual harassment, discrimination and especially wage and hour class actions.

With the firm turning 38 this year, Mark Rudy, Steve Zieff and Alan Exelrod say they're stepping back from managing the firm. Their work will continue: Rudy will build his mediation practice, Zieff has ongoing wage and hour matters, and Exelrod has his hands full with claims against venture capital firm Kleiner Perkins Caufield & Byers on behalf of former partner Ellen Pao.

The moves leave David Lowe, who became a partner in 2006, in the driver's seat. Instead of heading to another firm or looking into a merger, Lowe said he will stick it out with the help of two new partners. Former associate John T. Mullan and former Sanford Heisler LLP partner Chaya Mandelbaum have recently been named partners and will share in administering the firm as Lowe takes the reins as managing partner.

"We did consider other options," Lowe said, but on balance, they were proud of what the firm has accomplished so far.

"The firm name stands for something," Mullan said, "We didn't want to see it diluted."

So the firm with a reputation for innovation is reinventing itself.

With more lawyers, Lowe hopes to expand the number of cases the firm can handle, especially by taking on cases with other firms as co-counsel. They'll also continue to advise a growing base of executive clients, he said, in addition to the firm's core focus on wage and hour and single-plaintiff employment lawsuits.

Douglas E. Dexter, a partner at the San Francisco office of Farella Braun and Martell LLP whose clients are employers, said he's not surprised the firm opted to recreate itself rather than merge.

"I think it means a lot, because they are a very independent group," he said. Dexter used to take the occasional case from an employee plaintiff, but said he now refers such cases to Rudy Exelrod because they have "the credibility to be able to handle any matter."

Lawyers who have served as co-counsel with Lowe speak highly of his leadership. "He's a really good lawyer - a guy who is, I think, the appropriate person to try to take the firm into the next generation," said Alan R. Berkowitz, a sole practitioner in Marin County.

Lowe's biggest verdict thus far - more than \$100 million in a wage and hour lawsuit



Laura Hautala / Daily Journal
The new leaders at Rudy, Exelrod, Zieff & Lowe are, from left, John T. Mullan, David Lowe, and Chaya Mandelbaum.

Litigation

Federal judge questions lawyers in major Google privacy class action

A federal judge Thursday grilled attorneys over how to ascertain who would be a member of a massive class of email users whose messages were allegedly illegally scanned and intercepted by Google Inc.

Government

Seeking edge in court, special interests push legislation

Submitted just before the legislative deadline this month, two new bills show plaintiffs' attorneys and business interests seeking to pass laws meant to give themselves tactical advantages in civil suits.

Entertainment & Sports

Oscar winners: great films, spotty law

When you hear lines like, "We the jury find the plaintiff guilty," it is hard to resist the urge to overnight a cease and desist letter to the screenwriter. By **Kendall MacVey**

Judges and Judiciary

Strine sworn in as Delaware's chief justice

After more than 15 years on the bench of the nation's most prominent business court, Chancellor Leo E. Strine Jr. was sworn in as chief justice of the Delaware Supreme Court.

Litigation

Tentative \$80.5 million settlement reached in case alleging grave desecration

In the midst of a trial, a judge Thursday tentatively approved an \$80.5 million settlement in ongoing litigation against the owners of one of the largest Jewish cemeteries in Southern California.

Solo and Small Firms

Changing of the Guard

Instead of heading to another firm or looking into a merger as the firm's longtime leaders step away from leadership roles, David Lowe of Rudy, Exelrod, Zieff & Lowe said he will stick it out with the help of two new partners.

Law Practice

Oakland firm elects new leader

Wendel, Rosen, Black & Dean LLP announced Thursday the election of Richard P. Waxman as the firm's new managing partner.

Government

Judicial Council member appointed

against Starbucks Corp. based on the coffee giant's tip sharing policy - is impressive to his colleagues. The state Supreme Court ultimately threw out the award, but the case represented the firm's continued ambition in the wage and hour field.

James M. Finberg, a partner at plaintiffs' firm Altshuler Berzon LLP in San Francisco, said the chance to steer the ship was likely what kept Lowe and Mullan from heading to another firm.

"I think working in a big institution has advantages in terms of the resources you can draw upon, but it also has institutional constraints in terms of flexibility and getting pre-approval from other people for what you can work on," Finberg said. "For people like David and John, that flexibility is important."

For Mandelbaum, the chance to work at a firm he'd long heard praised proved appealing. "The firm kept coming up," he said, from the time he worked at Morgan, Lewis & Bockius LLP in San Francisco on the defense side, to his shift to plaintiffs' side work at Sanford Heisler.

Mandelbaum brings not only experience from both sides of the courtroom, but also inside knowledge of the labor regulation process. After his stint at Morgan Lewis, he went to the Department of Labor in New York. Upon returning to San Francisco, he joined Sanford Heisler, and Gov. Jerry Brown tapped him to chair the state's new Fair Employment and Housing Council.

For his part, Mullan said he took an interest in representing unions at the start of his career but got pushed toward wage and hour law by John M. True III, a former public interest lawyer who now is an Alameda County Superior Court judge.

"He told me, 'Really, this is an area where you can make an impact on workers' lives,'" Mullan said.

Both Mullan and Lowe have been with the firm practically since leaving UC Berkeley School of Law.

Lowe said the same things that set Rudy Exelrod apart from the firm's beginning would help a plaintiffs' firm starting out now: adaptability and innovation.

Though recent rulings restricting the scope of class actions would make the exact path taken by the firm hard to replicate, the changing landscape still leaves plenty of opportunities open for creative lawyers.

This includes executive clients, he noted, whom the firm charges on an hourly basis. With high-level employees switching companies in the cash-flush tech industry, members of the C-suite are seeking perspective on their contracts from fresh eyes. "There's a growing awareness it would be a good idea to talk to an employment attorney," Mullan said.

That work makes up about a fifth of the firm's revenues, Lowe estimated. Lowe has also followed Rudy's footsteps into the field of mediation.

Separately, recent victories in lawsuits brought by unpaid interns in New York have Lowe and company looking for ways to apply the model in California. It's not an area where he thinks all employers are in the wrong, Lowe said, but the system has problems.

"You have to be thoughtful," Lowe said, "There are examples of both technical violations and abuse." In situations where the violation of the law outweighs any potential benefit to the intern from working for free, or where the requirement to work for free is shutting out whole demographics from joining an industry, Lowe said a case should be made against the employers.

Such cases have made workers more savvy, Mandelbaum said. "With the publicity that they generated, employees are contacting firms like ours."

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[Previous](#)

[Next](#)

Chief Justice Tani G. Cantil-Sakauye announced Thursday that a Sonoma County Superior Court judge was selected for the position.

Mergers & Acquisitions

Dealmakers

A roundup of recent merger and acquisition and financing activity and the lawyers involved.

Legal Ethics & Professional Responsibility

'Pillar of Hispanic community' suspended two years for mismanaged trust account

A Los Angeles lawyer who let his nonlawyer brother oversee his office and trust account should be suspended two years for inadvertently misappropriating \$42,000, the State Bar Court said.

Law Practice

Court funding is top concern for new defense group head

As the newly elected president of the Association of Southern California Defense Counsel, Bob Olson's primary goal is to try and rein back some of the recent spending cuts to California's court system.

Alternative Dispute Resolution

Stephen G. Blicht

Lawyers say Stephen G. Blicht, a former Reed Smith LLP attorney, goes the extra mile to complete mediations successfully.

Government

Dress code policy riles San Francisco court workers

In a city where many residents dress casually for work, supervisors with San Francisco County Superior Court worry their employees are not buttoning up enough on the job.

Entertainment & Sports

Malcontented managers turn on talent

Until recently, it was relatively rare for a talent manager to sue a former client for commissions, but it now appears the gloves are off. By **Edward A. Klein**

Perspective

Dealing with Iran not as foreign as many seem to think

At the outset of the recent nuclear talks between Iran and the U.S. it was widely reported that there had been no direct contacts between Iran and the U.S. since the hostage crisis ending in 1981. By **Richard M. Mosk**

Professional Liability

Legal malpractice: Show me the damage!

An attorney should be able to argue that actual payment of an adverse judgment is a prerequisite because otherwise a plaintiff could recover for a judgment that never would have been paid. By **Kenneth C. Feldman and David D. Samani**

Securities

A few considerations before plunging into crowdfunding

The SEC has issued its long-anticipated proposals to implement crowdfunding under Title III of the JOBS Act. By **Glenn Luinenburg and Shahzia Rahman**

Alternative Dispute Resolution

The role of in house in mediation

In a recent mediation, the general counsel turned to the mediator and said: "Doesn't she realize that I'm the client?" By **Lucie Barron**

U.S. Court of Appeals for the 9th Circuit

Liberal judges say consumers deserve same deal as corporations

In a provocative challenge to the U.S. Supreme Court, Circuit Judge Stephen R. Reinhardt has urged the justices to do for consumers facing credit card late fees what they did for corporations slapped with punitive damage awards.