

# Jeffrey P. Michalowski

Partner

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Jeff Michalowski helps businesses, universities, and public entities navigate legal challenges at all levels of the state and federal judiciary. Jeff has deep roots in employment law, class actions, and civil rights — he authored multiple chapters of the leading treatise on California employment law, he has tried cases to defense verdicts in both state and federal courts, he teaches civil rights law, and has served on the faculty of the National Employment Law Institute. Jeff represents employers in the full spectrum of employment disputes, but has particular expertise in wage-hour class actions, as well as retaliation, whistleblowing, and disability discrimination.

Jeff is also an experienced appellate advocate, and chairs the appellate practice at Paul Plevin. He has served as lead counsel in dozens of writs and appeals in the Ninth Circuit and California Courts of Appeal, and has handled matters in the California Supreme Court and United States Supreme Court. He has helped Fortune 500 clients and leading universities win writs and appeals in employment law matters. But he also serves as an appellate generalist, handling appeals in cases involving freedom of speech, free exercise of religion, contract disputes, torts and injuries, attorney fee awards, and the full run of section 1983 cases against public entities.

Jeff is also an active member of the legal community, serving as an appointed member of the San Diego County Bar Association's Legal Ethics Committee, and serving on the executive committee of the San Diego County Bar Association's Appellate Practice Section. He has also achieved significant pro bono victories. Most recently, he brought a petition for writ of mandate on behalf of two public benefits recipients, and obtained a settlement resulting in modification of a public benefits Ordinance, and payment of back benefits to over a thousand individuals. Previously, he obtained relief from the Ninth Circuit for a political refugee seeking asylum in the United States.

Prior to joining Paul Plevin, Jeff worked as an associate in the employment law department at Paul Hastings LLP for seven years. He also spent two and half years leading the appellate and Supreme Court practice for the County of San Diego.

## Recent Representative Appellate Matters

- Represented County of San Diego in Ninth Circuit and United States Supreme Court in free exercise challenge to public health restrictions on churches
- Represented banking client in California Supreme Court appeal regarding statute of limitations for wage-hour penalties



## Education

- Harvard Law School, J.D. *cum laude*, 2006
- University of Virginia, B.A. with High Distinction, 2001

## Professional Experience

- Paul, Plevin, Sullivan & Connaughton LLP, Partner and Appellate Practice Chair, December 2021 – Present
- Office of County Counsel, Senior Deputy County Counsel (Appellate and Supreme Court), April 2019 – December 2021
- Paul, Plevin, Sullivan & Connaughton LLP, Partner, January 2017 – April 2019; Associate, June 2013 – December 2016
- Paul Hastings LLP, Associate, 2006 – 2013

## Admissions

- All California state courts
- All United States District Courts in California
- United States Court of Appeals for the Ninth Circuit and the Fifth Circuit
- United States Supreme Court

## Professional Activities

- Executive Committee, San Diego County Bar Association, Appellate Practice Section
- Executive Committee, Harvard Law School Association of San Diego
- Appointed Member, San Diego County Bar Association, Legal Ethics Committee
- Member, Lawyer's Club — Amicus Committee
- Member, State Bar of California, Labor and Employment Law Section
- Member, San Diego County Bar Association, Labor and Employment Law Section
- Member, San Diego Appellate Inn of Court
- Member, American Constitution Society

- Represented County Public Health Officer in appeal challenging public health restrictions on restaurants and adult entertainment, and obtained favorable published opinion
- Represented County of San Diego in Public Records Act writs, and obtained favorable published opinion
- Represented hotel management company in federal appeal involving union bargaining rights
- Represented telecommunications client in writ addressing class action statutes of limitations
- Represented social workers in section 1983 appeals challenging removal of children into protective custody
- Represented jail nurses in section 1983 appeals related to provision of medical care

#### Recent Representative Trial Court Matters

- Obtained complete defense verdict in the first case tried nationally of a fraud claim against a law school based on allegations of misrepresenting post-graduate employment data following a three-week jury trial.
- Won denial of class certification for several law schools, in which plaintiffs alleged violations of California's Unfair Competition Law based on allegedly misleading employment and salary statistics reported in U.S. News & World Report.
- Obtained order striking class allegations at the pleading stage for a law school
- Obtained dismissal without leave to amend at the pleading stage for a law school with similar employment statistics cases
- Defended transportation client in meal period class actions involving over 30,000 employees, and waiting-time penalty class actions involving over 20,000 employees
- Defended high-technology and internet gaming clients in multiple class actions involving application of computer professional exemption to Technical Writers, Customer Service Representatives, Engineers, and various other positions
- Defended telecommunications client in class actions and FLSA collective actions involving application of executive and administrative exemptions to Field Managers, Project Managers, and Business Managers
- Defended retail client in class action regarding California's "suitable seating" laws potentially impacting over 10,000 employees; obtained denial of state-wide class certification
- Defended transportation client in numerous individual plaintiff actions and DLSE and EEOC charges. Obtained complete defense verdict in federal jury trial in Americans with Disabilities Act case, and obtained complete summary judgment from California state court in FEHA retaliation case

#### Recent Speaking Engagements

- *Veracity: Our Duty of Candor to Courts*, San Diego Federal Bar Association, January 2022.
- *When Public Health and Freedom of Expression Collide*, San Diego County Bar Association Appellate Practice Section, October 2021.
- *A Changing Circuit in Changing Times: A Conversation with Judge John B. Owens and Kathleen Sullivan*, Harvard Law School Association of San Diego, January 2021 (moderator).
- *An Attorney's Oath and Duty to the Constitution*, San Diego Federal Bar Association, January 2021.
- *Appellate Counsel at Trial*, Litigation Section of Office of County Counsel, August 2020.
- *Dealing With Loss: Petitions for Certiorari and Petitions for Review*, Appellate Inn of Court, August 2019 (panelist).
- *The New Rules of Professional Conduct*, Harvard Law School Association of San Diego (2018).
- *The Culture Wars*, PPSC Annual Employment Law Seminar, October 2017
- *An Ounce of Prevention: Fair Pay and Wage-Hour Time Bombs, and How to Prevent Them*, PPSC Briefing, September 2017
- *Retaliation and Whistleblowing*, PPSC Annual Employment Law Seminar, October 2015
- *Complex Retaliation and Whistleblower Issues*, National Employment Law Institute, July 2016
- *Severance Agreements Under Fire*, PPSC Annual Employment Law Seminar, October 2015
- *Do You Know Who Your Employees Are?*, PPSC Annual Employment Law Seminar, November 2014
- *New California Employment Laws*, San Diego Employer's Association, February 2014
- *Employment Law Update 2014*, San Diego County Bar Association, January 2014
- *Wage and Hour Trends*, PPSC Annual Employment Law Seminar, October 2013

#### Publications

- *California Employment Law, Matthew Bender (Chapter 2 – Applicability of Rules Governing Hours Worked (Co-Author); Chapter 3 – Determining Hours and Proper Payment Amounts (Co-Author))*
- *Navigating the Ethical Landmines of Handling Your Own Appeal*, San Diego County Bar Association - For the Record (August 2021).
- *The Duty of Candor on Appeal*, San Diego County Bar Association - Ethics in Brief (April 2021)
- *Complex Whistleblowing and Retaliation Issues, National Employment Law Institute, 2014, 2015, 2016 (Co-Author)*
- *Whistleblowing, Retaliation, and Pervasive Harassment, National Employment Law Institute, 2013 (Co-Author)*
- *Employees May Elect A Working Lunch (But Employers Beware): An Analysis of Brinker v. Superior Ct., Lexis-Nexis Emerging Issues Analysis, 2012*
- *California Supreme Court Announces New Standard for Administrative Exemption: An Analysis of Harris v. Superior Court, Bender's California Labor & Employment Bulletin, February 2012*

### Teaching

- Instructor, Workplace Law, California State University, San Marcos (2014 -present)
- Instructor, Managing within the Law, California State University, San Marcos (2015 - present)
- Guest Lecture, University of San Diego, “Employment Law and Technology” (2018)
- Instructor, UCSD Extension, Employment Law for Managers (2017)