

# Buchalter

## Harry W. R. Chamberlain II

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### Areas of Practice & Industry Specialties

Complex Litigation, Insurance, Appellate Law

### Practice Profile

Harry Chamberlain has been trial and appellate counsel for Fortune 500 companies, public and private sector clients in complex litigation for 40 years. He is certified as an Appellate Specialist by the California State Bar Board of Legal Specialization, handling hundreds of appeals across the country, including numerous cases before California Supreme Court such as *Rubin v. Green* (absolute litigation privilege), *Jarrow Formulas v. LaMarche* (First Amendment protections under the anti-SLAPP statute), *Temple Hospital and Cedars Sinai Medical Center v. Superior Court* (the "spoliation" cases) and *Lee v. Hanley* (defining a lawyer's "professional services" for purposes of the one-year statute of limitation).

Before joining Buchalter, Harry was general counsel of a California-based commercial insurance group, and managed the law department for major U.S. liability insurers and financial service companies.

He is also active in Bar Association matters. Harry is past president of the Association of Southern California Defense Counsel (2006) and California Defense Counsel (2010), preeminent regional associations of civil defense trial and appellate lawyers. He recently completed four years as an elected Trustee of the Los Angeles County Bar Association and currently serves on the board of Counsel for Justice. In addition to his trial and appellate practice, Harry is often engaged as an expert witness and consultant in cases involving standards and practices of the legal profession, and the insurance industry.

He is admitted to practice in California, the District of Columbia, North Carolina and the U.S. Supreme Court.

### Representative Matters

- *Parrish v. Latham & Watkins LLP* (2017) 3 Cal.5th 767 (amicus): Malicious prosecution action by former employees against their employer's counsel was barred by the "interim adverse judgment" rule based on denial of a pretrial motion, even though the trial court later found employer's action was brought in bad faith
- *Winn v. Pioneer Medical Group, Inc.* (2016) 63 Cal.4th 148 (amicus): Aggravated "neglect" within the meaning of the Elder Abuse and Dependent Care Act requires plaintiff to show that the defendant health care provider had a "custodial relationship" with the elder patient
- *Lee v. Hanley* (2015) 61 Cal.4th 1225 (amicus): The one-year statute of limitations for actions against an attorney (Code Civ. Proc. § 340.6) applies to a former client's claim for reimbursement of unearned attorney fees advanced in a lawsuit if the claim arises from and is related to performance of a "professional obligation"
- *Healthsmart Pacific, Inc. v. Kabateck* (2016) 7 Cal.App.5th 416: \$60 million media defamation suit was an improper SLAPP against opposing counsel barred by the "fair report privilege" under Civil Code § 47(d)
- *Thayer v. Kabateck Brown Kellner LLP* (2012) 207 Cal.App.4th 141: Action by a client's spouse – claiming that her husband's attorneys mishandled a class action settlement – was barred as an improper SLAPP suit

- *Prospect Medical Group v. Northridge Emergency Medical Group* (2009) 45 Cal.4th 497: California law prohibits hospitals from “balance billing” patients for medical fees owed by their HMO
- *Mayer v. L&B Real Estate* (2008) 43 Cal.4th 1231: Property owner’s Due Process right to set aside an invalid tax sale does not expire until possession is “disturbed” by a valid notice of sale from the tax collector
- *City of Anaheim v. Angels Baseball LP* (2008) 2008 WL 5274631: Adopting the team name “Los Angeles Angels of Anaheim” did not violate stadium lease with the City of Anaheim
- *Cohn v. Corinthian Colleges, Angels Baseball LP* (2008) 169 Cal.App.4th 523: Mother’s Day tote bag giveaway at Angels’ baseball game was not unlawful discrimination against men
- *Kibler v. Northern Inyo County Hosp. Dist.* (2006) 39 Cal.4th 192 (amicus): Anti-SLAPP statute applies to disciplinary decisions by a hospital peer review committee
- *Jarrow Formulas Inc. v. La Marche* (2003) 31 Cal.4th 728: Lawyers may challenge claims for malicious prosecution under the anti-SLAPP statute, and recover legal fees if they prevail
- *Viner v. Sweet* (2003) 32 Cal.4th 1232 (amicus): A client suing for legal malpractice must prove that a more favorable outcome would have resulted “but for” the lawyer’s negligence
- *Musser v. Provencher* (2002) 28 Cal.4th 274 (amicus): Attorneys may seek indemnification for co-counsel’s errors committed during the joint representation of their mutual client
- *Summit Financial Holdings Ltd. v. Continental Lawyers Title Co.* (2002) 27 Cal.4th 1160 (amicus): Escrow agents owe no duty to protect interests of third parties outside of the transaction
- *Shade Foods, Inc. v. Royal Ins. Co. of America* (2000) 78 Cal.App.4th 847: \$14 million bad faith and punitive damages verdict reversed for insufficient evidence of malice
- *Potvin v. MetLife Ins. Co.* (2000) 22 Cal.4th 1060: Case-by-case analysis is required to determine if Due Process precludes the at-will termination of a medical provider by a health plan
- *Temple Community Hosp. v. Superior Court* (1999) 20 Cal.4th 464, *Cedars-Sinai Med. Center v. Superior Court* (1998) 18 Cal.4th 1 (amicus): No tort remedy for “spoliation of evidence” under California law
- *Parsons v. Crown Disposal Co.* (1997) 15 Cal.4th 456: Waste disposal company has no liability to a horseback rider for noises made during routine trash collection operations
- *Rubin v. Green* (1993) 4 Cal.4th 1187: Absolute litigation privilege bars private actions against attorneys under Business & Professions Code §17200
- *Bay Cities Paving & Grading Inc. v. Lawyers’ Mut. Ins. Co.* (1993) 5 Cal.4th 854 (amicus): Insurance policy limits available for “related” claims requires a common sense reading of the contract

## Selected Lectures and Publications

- Understanding COVID-19 As It Affects Your Life and Business, Pincus-Buchalter Webinar, 2020
- Advanced Appellate Practice Conference, Pincus Professional Education 2015-2020
- Keynote Speaker, "Meeting the Counter-Attack When Fighting Insurance Fraud," NCFIA-AFA Annual Conf. 2016
- ASCDC Lawyer Defense Committee, Hot Topics in Lawyer Professional Liability, ASCDC Winter 2016
- Out of Balance: “Balance-Billing” Unfairly Puts Patients in the Middle, *OC Lawyer* Dec. 2007
- Tactical Advantage? The Do’s and Don’ts of Summary Adjudication, CAALA Las Vegas Conf. Fall 2006
- The "Nuts and Bolts" of Anti-SLAPP, LACBA, ASCDC, ADC - No. Cal. & Nevada, 2001-2005, 2008
- Lawyers SLAPP Back! Challenging Derivative Tort Suits Under CCP § 425.16, LACBA, ASCDC 2002-2004
- The Seven Deadly Sins: Why Attorneys Get Stung by Juries in Legal Malpractice Cases, *Assn. of Bus. Trial Lawyers*, LACBA, CAAOC, Beverly Hills Bar, Amer. Bd. of Prof. Liability Attorneys, Alabama State Bar 1995-2008