California Employment Law: 2025 Year-End Update

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Arbitration Agreements

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Hohenshelt v. Superior Court

- CCP 1281.98 provides that if an employer fails to pay any fees and costs associated with arbitration within 30 days of their being due, the employer waives their right to proceed in arbitration.
- California Courts of Appeal had interpreted CCP 1281.98 to impose an inflexible and sometimes harsh rule resulting in employer's forfeiting the right to proceed in arbitration whenever a payment took longer than 30 days regardless of the circumstances.
- In this case, the employer's payment was only a few days because the employer did not realize they received the invoices until the arbitration case manager followed up about the status of payment.
- The California Supreme Court held that forfeiture is only appropriate where the failure to pay was "willful, grossly negligent, or fraudulent.

Anthony Wilson v. TAP Worldwide, LLC

- *Wilson* is one of the first appellate court cases to apply the holding from Hohenshelt.
- In *Wilson*, the trial court deemed the employer to have waived its right to proceed in arbitration and awarded attorneys' fees and costs to the plaintiff after the arbitration fee was paid three days late due to a delay in processing the payment.
- The California Court of Appeal reversed the trial court's decision, holding that waiver is only appropriate if the failure to pay was willful, grossly negligent, or fraudulent.

Silva v. Cross Country Healthcare

- In this case, the employer had an indisputably valid, enforceable arbitration agreement.
- The arbitration agreement was presented to employees as part of the onboarding process along with a general "Employment Agreement," which included a number of provisions the court deemed unconscionable (*e.g.*, the employer would be entitled to injunctive relief without having to post a bond).
- The Court of Appeal held that because the agreements were part of the same transaction (onboarding), they must be read together.
- Consequently, the Court of Appeal held that the arbitration agreement was unenforceable.

Doe v. Second Street Corp.

- Under the federal *Ending Forced Arbitration of Sexual Assault and Sexual Harassment Act* ("EFAA"), a plaintiff cannot be forced to arbitrate a sexual harassment claim. The EFAA states, in relevant part: "at election of the person alleging [sexual harassment] . . . no predispute arbitration agreement . . . shall be valid of enforceable *with respect to a case* which is filed under Federal, Tribal, or State law[.]"
- In this case, the plaintiff alleged sexual harassment along with other claims not covered by the EFAA.
- The Court of Appeal held that because the EFAA used the word "case" rather than "claim" or other similar language, that any case that alleges a claim covered by the EFAA cannot be compelled to arbitration.

Fuentes v. Empire Nissan, Inc.

- This is one to watch. The California Supreme Court has granted review, but has not yet decided the case.
- In this case, the employer's arbitration agreement was fair in substance, but was presented on a one-page form with tiny, seemingly blurred print, rendering it largely unreadable. The agreement was also presented on a take-it-or-leave-it basis.
- The trial court held that the arbitration agreement was unenforceable.
- The Court of Appeal reversed, holding that while the tiny, largely unreadable font was procedurally unconscionable, the agreement itself was not substantively unconscionable. Because an arbitration agreement must be both procedurally and substantively unconscionable to deemed invalid, the Court of Appeal determined that the agreement should be enforced.

PAGA

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Galara v. Dolgen California, LLC

- In mid-2024, PAGA was amended to require, among other things, that a named plaintiff must have actually suffered the alleged Labor Code violations for which they seek to pursue on behalf of other employees, *i.e.*, no more "headless" PAGA actions.
- In this case, the California Court of Appeal held:
  1. Headless PAGA actions <u>are</u> permitted under pre-amendment version of PAGA. Consequently, PAGA claims brought before the mid-2024 amendments (and possibly claims that straddle that time period), do not require the named plaintiff to have actually suffered the alleged Labor Code violations.
  2. The issue of standing <u>cannot</u> be decided by an arbitrator because the named plaintiff in a PAGA action can only pursue claims on behalf of the LWDA, which is not a party to the arbitration agreement. Consequently, only a court can decide the issue of standing.

Williams v. Alacrity Solutions Group, LLC

- Williams sued his former employer for various wage and hour violations. Subsequently – and more than one year after his employment ended – Williams filed a PAGA claim.
- Because the one-year statute of limitations on PAGA claims barred Williams from pursuing PAGA claims on his own behalf, Williams attempted to get around this by filing the claim only on behalf of other current and former employees.
- The Court of Appeal expressly noted that its analysis was entirely under the pre-amendment version of PAGA, which did not require the named plaintiff to have suffered each Labor Code violation alleged. However, even under the pre-amendment version of PAGA, the named plaintiff must seek to recover civil penalties on their own behalf and must have allegedly suffered at least one Labor Code violation within the one-year statute of limitations period.
- Accordingly, the Court of Appeal affirmed dismissal of Williams' PAGA claim.

Leeper v. Shipt, Inc.

- In 2022, the U.S. Supreme Court held that an individual PAGA claim could be compelled to arbitration under the Federal Arbitration Act. In dicta, the Court noted that once the individual PAGA claim is compelled to arbitration, the representative PAGA claim should be dismissed.
- In 2023, the California Supreme Court held that while the individual claim may be compelled to arbitration, the representative PAGA claim could still proceed in court.
- Thereafter, some plaintiffs attempted to avoid arbitration by asserting “representative-only” PAGA claims.
- The California appellate courts have split on whether this is permissible.
- The California Supreme Court has granted review.

Wage and Hour

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Renteria-Hinjosa v. Sunset Growers, Inc.

- A former union employee filed a wage and hour class action in state court. The defendant employer removed the case to federal court, arguing that the claims were preempted by section 301 of the Labor Management Relations Action Act.
- The District Court agreed with respect to the plaintiff's claim for untimely payment of wages and dismissed that claim because the plaintiff failed to exhaust the administrative procedures under the CBA. But because the District Court held preemption did not apply to any of the plaintiff's other claims, the District Court remanded those claims to state court. The defendant employer appealed.
- The Ninth Circuit affirmed, holding that unless a plaintiff's claims arise solely from or require interpretation of the CBA, they will not be preempted.

Naranjo v. Spectrum Security Services, Inc.

- This wage and hour case was litigated for over 15 years, including two separate reviews before the California Supreme Court.
- Naranjo alleged he was owed meal period premium payments for alleged meal period violations, which Spectrum disputed. Naranjo further alleged that Spectrum (1) committed wage statement violations because the premium payments were not included on Naranjo's wage statements, and (2) owed Naranjo waiting time penalties because the premium payments were not paid before Naranjo's employment ended.
- In 2022, the California Supreme Court held that premium payments for missed meal and rest breaks constitute wages that must be reported on an employee's wage statement and must be timely paid or the employer may be subject to waiting time penalties.

Naranjo v. Spectrum Security Services (Cont'd.)

- Based on the California Supreme Court's 2022 ruling, Naranjo argued he was entitled to wage statement penalties and waiting time penalties.
- Wage statement penalties and waiting time penalties are not automatic – violations must be "knowing and intentional" (wage statement penalties) or "willful" (waiting time penalties).
- Spectrum argued that because there was a good-faith dispute as to whether any meal period violations occurred – and thus whether Naranjo was entitled to any meal period premium payments – that any alleged violations were not knowing and intentional/willful.
- The California Supreme Court agreed with Spectrum, denying wage statement penalties and waiting time penalties to Naranjo.
- Implications for PAGA: likely establishes a good faith defense to PAGA penalties.

Camp v. Home Depot U.S.A., Inc.

- In 2012, the California Court of Appeal held in the *See's Candy* case that time rounding is permissible if the policy is "fair and neutral" on its face and does not result in the underpayment of wages over time.
- Home Depot maintained 15-minute time rounding policy where time entries rounded up or down to the nearest quarter of an hour. For example, an employee who clocked in at 6:06 would have their time rounded down to 6:00. Following *See's Candy*, the trial court granted summary judgment in Home Depot's favor.
- Camp appealed and the California Court of Appeal reversed the trial court. In doing so, the California Court of Appeal noted that modern timekeeping systems were capable of more precise timekeeping than was available in 2012 and that subsequent California Supreme Court decisions had held that there is no "de minimis" doctrine under California law.
- The California Supreme Court has granted review and is expected to issue a decision soon.

Civil Rights

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Kruitbosch v. Bakersfield Recovery Servs., Inc.

- In this case, a male plaintiff alleged sexual harassment against a female coworker based on off-site conduct, including texting him sexual propositions, sending him unsolicited nude pictures, and visiting his home uninvited.
- The plaintiff reported the conduct to HR, but the HR representative told him that nothing could be done because the conduct occurred outside the workplace. The plaintiff then resigned because he believed that he would continue to be harassed and the company would not do anything to stop the harassment.
- The California Court of Appeal held that off-site, nonwork-related sexual harassment by a coworker is not, by itself, imputable to the employer. There must be a sufficient nexus between the harassing conduct and the workplace for off-site conduct to be imputable to the employer.
- But an employer's response (or lack thereof) to an employee's complaint about a coworker's off-site nonwork-related harassment can create a hostile work environment.

Legislative Update

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New Employment Laws

- SB 642 – Clarifies that the “pay scale” required to be included in job postings must be a “good faith estimate” of the salary or wage the employer expects to pay “upon hire” rather than the range applicable to the position generally.
- SB 294 – Requires employers to provide a stand-alone written notice annually to each employee informing them of their rights under state and federal law.
- SB 513 – Requires education or training records to be included in employee personnel files.

Local Ordinances

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Local Minimum Wage Ordinances

Location	Old Minimum Wage	New Minimum Wage (7/1)
Alameda	$17.00	$17.46
Berkeley	$18.67	$19.18
Emeryville	$19.36	$19.90
Fremont	$17.30	$17.75
City of Los Angeles	$17.28	$17.87
County of Los Angeles (unincorporated)	$17.27	$17.81
Milpitas	$17.70	$18.20
Pasadena	$17.50	$18.04
San Francisco	$18.67	$19.18
Santa Monica	$17.27	$17.81

QUESTIONS?

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