

# 2025 Cal/OSHA & California Labor & Employment Law Summit

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## California Labor & Employment Update

OCTOBER 2025

*Conn Maciel Carey LLP's California Practice Group  
with Special Guests*

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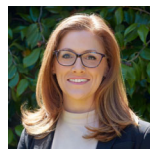
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## The Panel (Day 1)

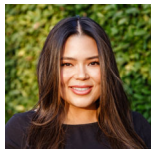
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**Moderator:**  
**Kara M. Maciel**  
*Labor & Employment Chair*  
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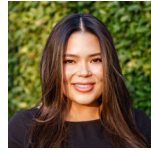
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## The Panel (Day 2)



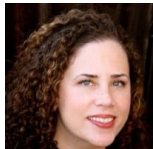
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## Ashley Hoffman

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**Ashley Hoffman** is a Sr. Policy Advocate for the **California Chamber of Commerce (CalChamber)**.

- Specializes in labor and employment and workers' compensation policy on behalf of California employers.
- Experienced employment attorney, previously with Jackson Lewis and Gibson Dunn, advising and defending employers in complex litigation and compliance matters.
- UCLA School of Law graduate and UC Santa Barbara honors alumna, with judicial experience at the U.S. District Court and Ninth Circuit Court of Appeals.

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**Megan Stevens Shaked** is a Partner and Lead in the California Workplace Safety and Employment Practices at **Conn Maciel Carey LLP's** San Francisco office, where she focuses her practice on a wide range of workplace safety and employment challenges employers face:

- Represents employers in inspections, investigations and enforcement actions involving Cal/OSHA
- Defends employers in employment litigation and administrative actions in California
- Counsels employers on compliance with employment laws and OSHA regulations

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**Letitia Silas** is a Partner in Conn Maciel Carey LLP's national Labor & Employment Practice Group.

- Over a decade of experience in traditional labor, collective bargaining, and labor and employee relations as an attorney and organizational leader, including as former NLRB investigator/trial attorney, in-house counsel, and executive.
- Advises unionized and non-unionized employers on their rights under the National Labor Relations Act; serves as chief negotiator for management at collective bargaining negotiations; represents employers in union election campaigns and petitions.
- Crafted and led labor strategies for major enterprises across healthcare, entertainment, higher education, hospitality, entertainment, and public safety sectors.


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**Andrea O. Chavez** is a Senior Counsel in **Conn Maciel Carey LLP's** Los Angeles office. Her practice focuses on Cal/OSHA, labor law, California employment law advice and counseling, and complex employment litigation.

- Litigated California's first citations under the Cal/OSHA Aerosol Transmissible Disease standard on behalf of a leading healthcare system.
- Defended and settled wage-and-hour class actions under federal and state law involving overtime calculations, meal and rest periods, vacation policies, unlawful deductions from wages, bonuses, exempt classification, and California Private Attorneys General Act actions.

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**Kimberly Cole** is a Senior Counsel at **Conn Maciel Carey LLP**, supporting the Labor and Employment practice group in the San Francisco and Los Angeles offices. She has over two decades of dedicated California labor and employment experience:

- Represents and advises clients in all aspects of the employer-employee relationship with a special focus on wage and hour claims
- Successfully defended clients in complex employment matters, including wage and hour class actions, PAGA claims, discrimination, wrongful termination, and claims brought under the California Fair Employment and Housing Act (FEHA)
- A Certified Workplace Investigator with the Association of Workplace Investigators (AWI)

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**Kara M. Maciel** is a Founding Partner and Chairs the Firm's national Labor and Employment Practice.


- Defend employers in federal and state litigation, including matters related to ADA, FLSA, FMLA, Title VII, and affirmative action / OFCCP regulations.
- Counsel employers on compliance with federal and state law, including issues related to hiring, discipline, internal investigations, and termination.
- Provide training to employers on employment issues, including harassment and retaliation, ADA/FMLA compliance, and labor relations Counsel.

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## Agenda





- 1 PAGA Reform: One Year Later
- 2 Labor Update
- 3 New Legislation
- 4 Recent Court Decisions


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## History of PAGA Reform



**Effective Date**

June 27, 2024

July 1, 2024

AB 2288 and SB 92 passed  
in Legislature

### Background

- PAGA (2004) permits "aggrieved employees" to seek penalties for Labor Code violations. Penalties recovered split between LWDA (75%) and aggrieved employees (25%).

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## PAGA Reform: Changes

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- **Standing:** an aggrieved employee must personally suffer each alleged violation within 1-year SOL (limited exception for nonprofit legal aid org, meeting certain qualifications).
- **Opportunities for cure,** including changes to early evaluation.



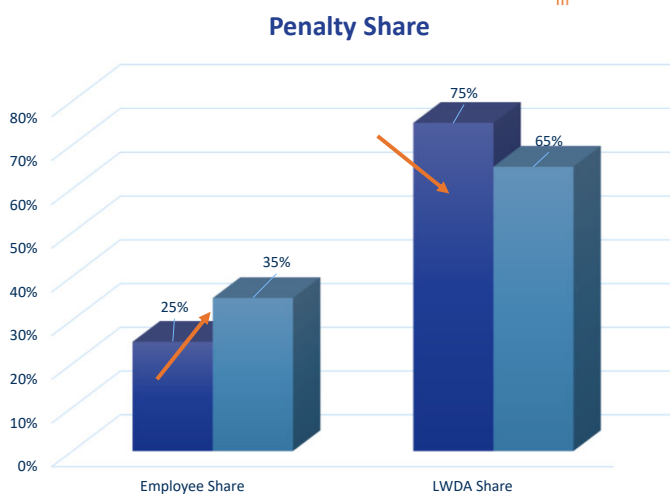
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## PAGA Reform: Changes

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**Penalty amounts:** \$200 penalty reserved for employer conduct that is “malicious, fraudulent, or oppressive” or where in the last five years the state agency or a court determined an employer policy or practice giving rise to the violation was unlawful.



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## PAGA Reform: Changes



### Penalty Reductions

- Wage statements \$25 where employee can still promptly and easily determine from statement the requisite information. \$25 where employee not confused or mislead about the correct employer entity. \$50 for isolated, nonrecurring event that didn't exceed 30 days or 4 pay periods.

### Penalty Caps

- 15% cap for corrective action taken after notice; 30% cap for post-notice cure.
- Limits on penalty stacking for derivative claims.
- Adjustment for weekly pay period: 50% reduction.

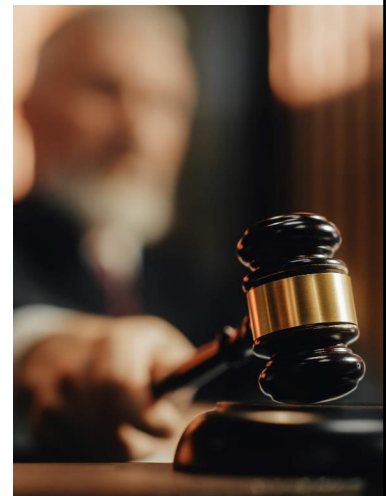
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## PAGA Reform Reflections



- Impact on the number of PAGA cases?
- Case valuation?
- Litigation strategy?
- Preview of next couple of slides:
  - Impact of legislation and court action?
  - Impact on the types of PAGA cases?



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## PAGA: Court Cases

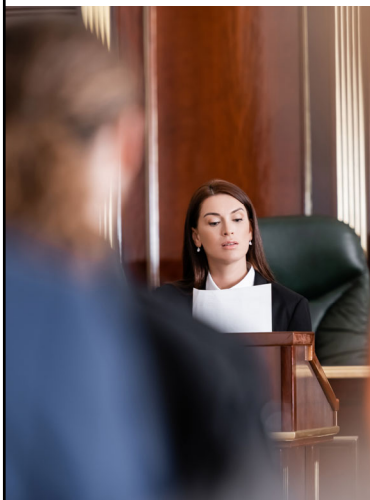


- Cases pending before Cal. Supreme. *Leeper v. Shipt*: (1) Does every PAGA action necessarily include both individual and non-individual PAGA claims, regardless of whether the complaint specifically alleges individual claims? (2) Can a plaintiff choose to bring only a non-individual PAGA action?
  - *Williams v. Alacrity Solutions Group* briefing deferred pending decision in *Leeper*
  - Controversial “headless” PAGA case, where employee prosecuting the action has abandoned employee’s own claims for civil penalties imposed for violations the employee suffered personally, was permitted. *CRST Expedited v. Sup. Ct.* (Cal. Court of Appeal), further action on petition for review deferred pending decision in *Leeper*.

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## PAGA: Court Cases



- *Hirdman v. Charter Comms.* (Cal. Court of Appeal). PAGA suit based on various Labor Code violations, including section 245 governing calculation and payment of sick leave.
  - Employee argued employer improperly classified him as exempt, rather than non-exempt, and thus used a different method of calculating sick leave.
  - Employer argued he was an outside salesperson exempt from overtime compensation requirements.
  - Trial court agreed with employer, granting MSJ and entering judgment in its favor; decision affirmed.

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## PAGA: Court Cases



- *Rose v. Hobby Lobby* (Cal. Court of Appeal). PAGA class action.
  - Employer prevailed and sought fees and costs.
  - Case turned on whether the LWDA would be liable for any fees or costs.
  - The trial court awarded \$125,000 against the LWDA which was overturned by the Court of Appeal. It found that while the LWDA is a third-party beneficiary of the PAGA suits, it does not Court of Appeal ultimately determined that while the LWDA is a third-party beneficiary, it does not play a role in the litigation.

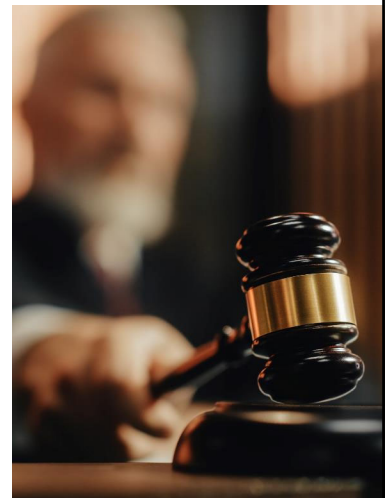
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## PAGA Reform: Best Practices



- Review LWDA letters promptly
- Payroll and other Wage and Hour audits
- Checking applicable industry-specific Wage and Hour requirements
- Reviewing written policies
- Training supervisors and managers




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## California Legislation (2025)



- **SB 53 (signed)**
  - Transparency in Frontier Artificial Intelligence Act (TFAIA) aimed at supporting effective AI governance by developers of advanced AI systems, balancing benefits of innovation with mitigating catastrophic risk
  - Disclosure of safety protocol and risk assessments
  - Incident and risk reporting
  - Whistleblower protections, enforcement, civil penalties

- **SB 7 (vetoed)**
  - Automated decision systems (ADS) in employment.
- **SB 442 (did not pass in legislature)**
  - Self-checkout staffing
- **AB 1018 (did not pass in legislature)**
  - Automated decision systems (ADS)
- **AB 1221 (did not pass in legislature)**
  - Use of worker data
- **AB 1331 (did not pass in legislature)**
  - Workplace surveillance

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## Update on SB 399 (2024) Captive Audience Meetings

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- California Worker Freedom from Employer Intimidation Act prohibits employers from taking adverse action against an employee who declines to attend an employer-sponsored meeting or receive communication about the employer's opinion about religious or political matters.
- Preliminary injunction granted in full on September 30, 2025, in *California Chamber of Commerce v. Bonta*
- The court agreed that the law was preempted by the NLRA and that it violated the First Amendment
- State has 30 days to appeal to Ninth Circuit

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## Circuit Split on Remedies Under NLRA

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- *Int'l Union of Operating Engineers Local 39 v. NLRB* (9th Circuit)
  - Union-represented employees offered to return to work after a three-month strike during contract negotiations
  - Macy's locked out the employees instead of allowing their return
  - Union filed unfair labor practice (ULP) charges against Macy's
  - The Board adopted the ALJ's finding that Macy's violated the Act, and amended the remedy to include all direct and foreseeable pecuniary harms suffered by employees during the lockout
  - The Ninth Circuit held that the NLRB did not exceed its authority by ordering "Thryv remedies," marking a split with the Third Circuit's December 2024 ruling



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## NLRB Update

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- NLRB has one sitting member (out of a five-member panel) and lacks a quorum, rendering it powerless. The Board has lacked a quorum since January 2025 when Trump fired member Gwen Wilcox.
- Over the spring/summer, the President nominated Scott Mayer and James Murphy for appointment to the Board and Crystal Carey to serve as the agency's General Counsel.
  - **Mayer** (Boeing Chief Labor Counsel ) - nominated to serve until December 16, 2029.
  - **Murphy** (Veteran NLRB attorney): nominated to serve until December 16, 2027.
- On July 16 and October 1, the Senate Health, Education, Labor and Pensions (HELP) Committee held confirmation hearings for the nominees.
- On Oct. 9, the HELP committee voted 12-11 in favor of both Crystal Carey's nomination for GC and Murphy's nomination to fill one Board seat. Carey will take over for interim Acting General Counsel Bill Cowen. Both nominations now move to the full Senate for a final vote. The committee tabled the vote on Mayer's nomination.
- With Murphy's confirmation, the Board will now consist of two members — David Prouty being the only other Board member at this time. Even with Murphy's nomination, the Board would still lack a quorum.

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## State Response Powerless NLRB



- New York:** On September 5, New York enacted S.8034A, which grants its state Public Employment Relations jurisdiction over private sector labor law and employers by granting it authority to hear unfair labor practices, enforce collective bargaining agreements, and certify unions.
  - On September 12, the NLRB’s Interim GC, Bill Cowen, filed suit in federal court, seeking declaratory and injunctive relief against enforcement of the state law. The GC’s challenge rests largely on preemption via the Supremacy Clause of the U.S. Constitution and U.S. Supreme Court precedent.
- California:** On September 30, California enacted AB288, which – effective January 1, 2026, grants a California’s PERB authority to enforce federal labor law in the absence of action by the National Labor Relations Board (“NLRB”)
  - NLRB challenged in E.D. Cal. on October 15

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## AB 288 (California) vs. NLRA (Federal)



Feature	AB 288 (California)	NLRA (Federal)
<b>Existing Legal Framework</b>	PERB is a state agency that regulates labor relations and collective bargaining for <u>public employers</u> through the enforcement of various state laws	NLRA is a federal law that governs private-sector labor relations and regulates private employers and unions. It empowers the NLRB, a federal agency to enforce the NLRA via its Prosecutorial and adjudicative divisions
<b>New Coverage Under AB 288</b>	Expands PERB’s jurisdiction to private sector employees when NLRB has “ceded jurisdiction to the states” by being unable or unwilling to act	Continues to apply to most private employers absent court invalidation of its powers
<b>Trigger for Jurisdiction</b>	NLRB must have ceded jurisdiction (expressly or implicitly), including when it: Lacks quorum; Is enjoined by courts; is found unconstitutional; Fails to act within deadlines	NLRB holds exclusive jurisdiction, unless incapacitated or legally prevented from functioning likely by the Supreme Court or Congress
<b>Enforcement Authority</b>	PERB can: Conduct elections; Process ULP charges; Issue injunctions and order penalties; Order bargaining; Compel mandatory arbitration for stalled negotiations	NLRB can: Conduct elections; Process ULP charges; Order make-whole remedies; Seek injunctions through federal court
<b>Civil Penalties</b>	Yes — \$1,000 per violation for labor-law violations	No — no civil fines or penalties are authorized
<b>Mandatory Arbitration for CBAs</b>	Yes — If bargaining stalls for more than 6 months, PERB can order binding arbitration	No — NLRB cannot force parties into arbitration during CBA negotiations

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## AB 288 (California) vs. NLRA (Federal)



Feature	AB 288 (California)	NLRA (Federal)
<b>Injunction Authority</b>	PERB may directly order injunctions	NLRB must go through federal court
<b>Application of Precedent</b>	Can rely on NLRA precedent but interpreted to expand rights for California workers	Bound by Board Precedent generally. Circuit courts can order or deny enforcement of Board Orders, but they do not have authority to change Board law. Only the Supreme Court.
<b>Rollout Timeline</b>	Phased implementation through January 1, 2027	Fully implemented nationally since 1935
<b>Preemption Risk</b>	High — May be preempted by the NLRA under federal supremacy	Federal law supersedes conflicting state laws under Supreme Court precedent
<b>Legal Challenges Anticipated?</b>	Yes — NLRB challenging on preemption grounds	No — NLRA is the controlling framework

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## Why This Matters for California Employers



- Confusion and duplication
- Expanded remedies
- Interference in bargaining through forced arbitration
- More vulnerability to injunctions and additional expansive remedies
- Uncertainty in compliance: Employers navigate compliance with federal and state labor law obligations

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## Pay Data - SB 464

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Existing law requires a private employer that has 100 or more employees to submit an annual pay data report to the Civil Rights Department.



SB 464 requires employers to collect and store any demographic information gathered by an employer or labor contractor for the purpose of submitting the pay data report separately from employees' personnel records, and, beginning Jan. 1, 2027, increases the number of job categories to from 10 to 23.

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## Equal Pay Act Revisions – SB 642



- “Pay scale” revised to mean “a good faith estimate of the salary or hourly wage range the employer reasonably expects to pay for the *position upon hire*.”
- Defines “sex” as having the same meaning as other sections of the Fair Employment and Housing Act.
- Defines “wages” and “wage rates” to include “all forms of pay, including but not limited to, salary, overtime pay, bonuses, stock, stock options, profit sharing and bonus plans, life insurance, vacation and holiday pay, cleaning and gasoline allowances, hotel accommodations, reimbursement for travel expenses, and benefits.”
- SOL is 3 years after the last date the cause of action occurred.
- Entitled to obtain relief for the entire period in which the violation exists, up to six years.
- Revisions take effect Jan. 1, 2026.



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## Gratuities – SB 648



### Existing law:

- All gratuities are the sole property of the employee(s) for whom they are left
- If patrons pay gratuities by credit card, employers must:
  - Pay employees the full tip amount shown on the credit card slip
  - No deductions for credit card processing fees or costs
  - Pay out tips by the next regular payday following the transaction.

### Under SB 648, the Labor Commissioner may:

- Investigate, issue citations, or file civil actions for violations
- May issue penalties as under Labor Code §1197.1 (\$100 per employee per pay period for first violation, \$250 per employee per pay period for second violation)

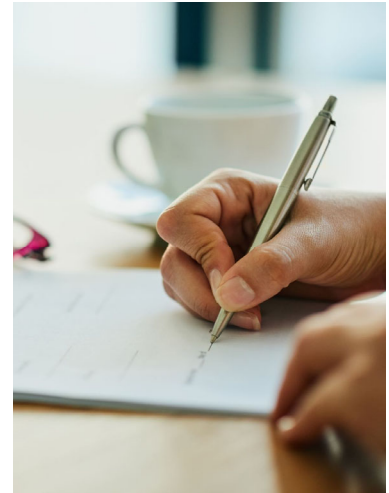
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## Employment Contracts - AB 692



- For contracts entered into on or after January 1, 2026, it is unlawful for an employer to include or require terms that:
  - Require a worker to repay a debt for employment-related costs, education-related costs, or a consumer financial product or service to an employer, training provider, or debt collector if employment ends
  - Allow an employer or debt collector to resume or initiate debt collection after separation
  - Impose any penalty, fee, or cost upon a worker who leaves employment.



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## Employment Contracts - AB 692 (Cont.)



Exceptions: Government loan or forgiveness programs; tuition repayment for transferable credentials (if specific requirements are met); state-approved apprenticeship programs; discretionary or unearned hiring bonuses (if specific requirements are met); and residential property contracts.



Workers can bring an action on behalf of that worker or other persons similarly situated for actual damages or \$5,000 per worker

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## Rest Break Exemption at Petroleum Facilities – AB 751



- Extends indefinitely the existing rest break exemption for safety-sensitive positions at petroleum facilities (previously set to expire Jan. 1, 2026)
- Employees in safety-sensitive roles are not required to be relieved of all duties during rest breaks if they must:
  - Carry and monitor a communication device (e.g., radio, pager) and respond to emergencies, or
  - Remain on premises to monitor and respond to emergencies
- If a rest period is interrupted by an emergency, the employer must:
  - Provide another rest period reasonably promptly after the interruption, or
  - Pay one hour at the employee's regular rate if a makeup rest period cannot be provided

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## Worker Classification – AB 1514

- Extends exemption to ABC test for licensed manicurists (exemption expired Jan. 1, 2025) to Jan. 1, 2029
- Extends existing exemption to ABC test for commercial fishers on American vessels (exemption set to expire Jan. 1, 2026) to Jan. 1, 2031

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## FEHA Enforcement



### ■ SB 477

- Extends timing for CRD to issue right-to-sue notice, particularly complex case. The CRD can pause the investigation and toll the statute of limitations running independently or upon agreement by the parties. If the party wants to appeal an investigation, the timing for the appeal will be an additional time of tolling.
- If the Department opts not to pursue a civil action, FEHA requires them to issue the complainant a right-to-sue notice either upon request, within 150 days after filing the request, or, if not requested, no later than one year after filing the complaint. In cases treated as a group or class complaint, CRD has up to two years to issue the notice.

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## Contractors and Subcontractors



- SB 809 - Employees and independent contractors: construction trucking
  - This bill provides an amnesty program called the “Construction Trucking Employee Amnesty Program” which relieves eligible construction contractors of liability for statutory or civil penalties associated with misclassification of eligible employees if the contractor executes a settlement agreement negotiated with, or approved by, the LC where they agree to, among other things, properly classify all drivers performing construction work on their behalf as employees. Self-audit includes identification, amount of compensation and impacted employees.

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## Contractors and Subcontractors

- SB 597 - Labor-related liabilities: direct contractor and subcontractor
  - Creates **joint liability** between the direct contractor and subcontractor for wage issues for any unpaid wage, fringe or other benefit payment or contribution, penalties or liquidated damages, and interest owed by the subcontractor.

## Contractors and Subcontractors

- AB 538 – Public Works Certified Payroll Records
  - Requires the awarding body of a public works project, upon request by the public, to obtain CPRs from a contractor and make CPRs available within 10 days of written notice requesting a certified copy of payroll records. If a contractor or subcontractor fails to comply within the 10-day period, DLSE will be notified and penalties be withheld from progress payments.



## SB 590 – Paid Family Leave – Care for Designated Persons

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- Beginning July 1, 2028, this bill adds the payment arm to the expansion provided in 2022 when Paid Family Leave was amended to include individuals who take time off work to care for a seriously ill designated person.
- PFL was changed in 2022 to permit the family member and/or designated person. Now this bill will permit the payment of benefits under the state program for up to 8 weeks in a 12-month period.

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## SB 513 - Personnel Records

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- Expands maintenance of records to include education and training records including
  1. name of employee;
  2. name of training provider;
  3. core competencies of a training, including skills in equipment or software; and
  4. resulting certification or qualification.



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## SB 303 - Training



- Provides protection for both an employee and employer for honest admissions of implicit bias IF made in good faith and solicited or required as part of a bias mitigation training.
- This admission, discussion or knowledge of bias does not, by itself, constitute unlawful discrimination.
- This law amends the FEHA.
- The goal is to provide a more fulsome training and eliminate bias and discrimination.

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## Agricultural Workers



- AB 845: if funded by legislature, will require the following agencies to collaborate when a complaint is made by an agricultural employee to any department within the LWDA:
  - Agricultural Labor Relations Board; Department of Industrial Relations; Division of Labor Standards Enforcement; or Division of Occupational Safety and Health
- Includes taking “all reasonable effort” to transmit complaint to appropriate entity for processing and investigation
- AB 1362: expands existing requirements for foreign labor contractors to include ag workers (previously exempt) beginning July 1, 2027

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## Important Court Decisions

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## Arbitration: Collection of Cases

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- Adhesive agreement to arbitrate is unconscionable, and therefore unenforceable, if, e.g., the agreement:
  - Compels arbitration of claims more likely to be brought by the weaker party, but exempts from arbitration claims more likely to be brought by the stronger party. *Silva v. Cross County Healthcare* (Cal. Court of Appeal).
  - Is pre-signed by the company, and the authorized individual was not present when the agreement was presented to the employee. *Jenkins v. Dermatology Management, LLC* (Cal. Court of Appeal).
  - Unreasonably shortens the statute of limitations. *Id.*
  - Requires employees to pay any arbitrators' fees or expenses as a condition of access to the arbitration forum. *Id.*
  - Unreasonably restricted discovery. *Id.*
- A severance provision cannot save an arbitration agreement where "the central purpose of the contract is tainted with illegality." *Ramirez v. Charter Communications, Inc.* (Cal. Court of Appeal).

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## Arbitration: Initiating Arbitration

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*Arzate v. ACE American Insurance Company* (Cal. Court of Appeal)

- Plaintiffs filed a class action lawsuit
- Defendant filed a motion to compel based on the fact that Plaintiffs signed arbitration agreements that contained a class action waiver, and the motion was granted
- The arbitration agreements required the “party who wants to start the [a]rbitration [p]rocedure” to begin the process by filing a demand for arbitration
- Defendant did not initiate arbitration, and the trial court found it waived the right to arbitrate
- The Court of Appeal reversed

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## Arbitration: Pay Your Fees on Time!

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- Still seeing litigation over untimely payment of arbitration fees.
  - FAA does not preempt Cal. Civil Procedure Code section 1281.98. *Hohenshelt v. Sup. Ct.* (Cal. Supreme).
  - Defendant's untimely payment was not willful, grossly negligent, or fraudulent (where payment authorized on the 30<sup>th</sup> day) and thus did not support an attorney's fees award to Plaintiff of all fees and costs incurred in arbitration. *Wilson v. Tap Worldwide* (Cal. Court of Appeal), discussing *Hohenshelt v. Sup. Ct.* (Cal. Supreme).

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## Arbitration: Ending Forced Arbitration of Sexual Assault (EFAA) and Sexual Harassment Act

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- *Casey v. Superior Court* (Cal. Court of Appeal)
  - Plaintiff brought sexual harassment and other claims against employer and one of its employees
  - Employer brought a motion to compel arbitration pursuant to an arbitration agreement that was explicitly governed by California law
  - Plaintiff filed a writ of mandate
  - The court found that the EFAA preempts state law where the employment relationship sufficiently involves interstate commerce, and parties cannot contract around the law with choice-of-law provision.



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## Discrimination, Harassment, Retaliation: Sexual Harassment Outside the Workplace

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- *Kruitbosch v. Bakersfield Recovery Services* (Cal. Court of Appeal).
  - Coworker at Plaintiff's job allegedly subjected him to crude sexual advances at his home and via his personal cell away from work premises.
  - Reprehensible conduct, but not sufficiently work related and not imputable to employer.
  - However, sexual harassment hostile work environment claim viable on theory that employer's response to employee's complaint altered plaintiff's work environment in an objectively severe manner.



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## Discrimination, Harassment, Retaliation: Comparator Evidence

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- *Wawrzenski v. United Airlines, Inc.* (Cal. Court of Appeal)
  - Plaintiff was a female flight attendant for United Airlines, who was terminated after United investigated her social media account showing photos of her in uniform and in a bikini, linked to a subscription-based account offering “exclusive private content.”
  - United moved for summary judgment on all claims, which the trial court granted in full.
  - Court of Appeal reversed and found:
    - Plaintiff established a prima facie case of gender discrimination and triable issues of pretext, in part with evidence United treated more favorably three male employees who had social media accounts featuring pictures of themselves in uniform and partially undressed.
  - Remember: Treat employees that are similarly situated similarly.

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## Discrimination, Harassment, Retaliation: Severe and Pervasive and Sufficient Investigations

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- *Carranza v. City of Los Angeles* (Court of Appeal).
  - Highly-ranked female police captain was informed that a topless picture was being circulated within the Los Angeles Police Department and identified as her. It was not. She requested investigation and a statement.
  - Statement was not done, and the investigation was not thorough.
  - The court found that the photograph had been widely distributed which resulted in becoming a severe and pervasive environment.
  - Awarded \$4 million in damages.

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## Discrimination, Harassment, Retaliation: Prima Facie Case and Workplace Investigations



- *Lui v. DeJoy* (9th Circuit)
  - Plaintiff was a longtime USPS employee of Chinese ethnicity who was promoted to Postmaster and later alleged she was targeted with false, discriminatory complaints.
  - USPS demoted her and replaced her with a white male.
  - Plaintiff appealed her demotion internally. The reviewing official conducted a document-based investigation and upheld the demotion.
- The Court of Appeals held the district court erred in granting summary judgment to USPS on the disparate treatment claim, finding:
  - Being demoted and replaced by a white man gives rise to an inference of discrimination, satisfying the fourth element of her prima facie case
  - Genuine issue of fact as to whether USPS had a legitimate, non-discriminatory reason for the demotion where in its investigation, USPS conducted no interviews and credited written complaints despite supervisors' warnings of racial bias.

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## Wage & Hour: Meal and Rest Breaks



- *Alison Dignity Health* (Cal. Court of Appeal):
  - Class decertified.
  - Employer sought to introduce additional evidence of employee choice to waive meal periods and varying circumstances related to nurses holding phones during break times to rebut the presumption established by time and phone records (per *Donahue* decision).
  - Adjudication of employer's affirmative defense created too many individualized inquiries to support class treatment.

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## Wage & Hour: Properly Drafted Waivers

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- *Bradsbery v. Vicar Operating*. (Court of Appeal).
  - Class action where all other claims were settled, but the issue related to the meal waivers.
  - Court upheld the meal period waivers because as drafted they were revocable and complied with the requirements of the DIR.
  - Absolutely vital to have compliant waivers and policies on hand.



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## 2025 Labor & Employment Webinar series

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### The Future of Workplace Law: 2025 Predictions

Thursday, January 23<sup>rd</sup>

### Positive Employee Relations, Protected Concerted Activity, and Union Organizing

Wednesday, March 12<sup>th</sup>

### Reasonable Accommodations Under the ADA

Wednesday, May 28<sup>th</sup>

### Investigation Insights for Wage and Hour

Wednesday, August 6<sup>th</sup>

### Protect Your Interest: Workplace Crisis Management

Wednesday, September 10<sup>th</sup>

### Workplace Violence Prevention Strategies

Thursday, November 13<sup>th</sup>

### California Employment Law Update in 2025

Wednesday, February 19<sup>th</sup>

### Trade Secrets and Restrictive Covenants: Safeguard Your Company's Critical Assets

Thursday, April 10<sup>th</sup>

### Retaliation and Whistleblower Developments

Wednesday, July 9<sup>th</sup>

### Labor Arbitration – Maximizing Your Chances for Success

Thursday, August 21<sup>st</sup>

### Mastering AI in the Workplace

Tuesday, October 7<sup>th</sup>

### ADA Compliance Obligations for Businesses

Thursday, December 11<sup>th</sup>

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**Workplace Safety after COVID-19 Regulations Sunset and the Potential General Industry Infectious Disease Standard**

Tuesday, March 27<sup>th</sup>

**Federal and State OSHA Heat Illness Prevention (OSHA & Cal/OSHA Crossover)**

Thursday, April 24<sup>th</sup>

**Cal/OSHA Mid-Year Update**

Wednesday May 21<sup>st</sup>

**Top Cal/OSHA Violations**

Wednesday, June 18<sup>th</sup>

**Top Strategies for Reviewing Your Safety Program**

Thursday, July 24<sup>th</sup>

**How Safety Impacts the Workplace Beyond OSHA**

Wednesday, August 27<sup>th</sup>

**Protect Your Interest: Workplace Crisis Management**

Wednesday, September 10<sup>th</sup>

**Process Safety Update**

Thursday, October 16<sup>th</sup>

**CMC's 3<sup>rd</sup> Annual Cal/OSHA and Employment Law Summit**

Tuesday, October 21<sup>st</sup> and Thursday, October 23<sup>rd</sup>

**Workplace Violence Prevention Strategies**

Thursday, November 13<sup>th</sup>

**Annual Cal/OSHA Enforcement and Regulatory Update: Are You Ready for 2026?**

Thursday, December 4<sup>th</sup>

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## 2025 OSHA Webinar series

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**OSHA 2024 in Review and 2025 Forecast**

Tuesday, January 28<sup>th</sup>

**Key Considerations in IH (Chemicals & Dust)**

Monday, February 10<sup>th</sup>

**5 Most Cited General Industry OSHA Standards**

Thursday, March 20<sup>th</sup>

**Federal and State OSHA Heat Illness Prevention**

Thursday, April 24<sup>th</sup>

**Massage Therapy/ART and Other Cutting-Edge Issues in Recordkeeping (Mental Health)**

Wednesday, May 14<sup>th</sup>

**What Employers Need to Know About OSHA Formal Letters of Interpretation**

Tuesday, June 17<sup>th</sup>

**Updates in the Retaliation and Whistleblower Landscape**

Wednesday, July 9<sup>th</sup>

**Top 5 Construction Industry OSHA Citations**

Wednesday, August 13<sup>th</sup>

**Protect Your Interest: Workplace Crisis Management**

Wednesday, September 10<sup>th</sup>

**Process Safety Update: OSHA's PSM Standard, EPA's RMP Rule, the Chemical Safety Board, and Cal/OSHA's PSM Unit**

Thursday, October 16<sup>th</sup>

**Workplace Violence Prevention Strategies**

Thursday, November 13<sup>th</sup>

**Safety 2.0: New Approaches to Performance Management (HOP), Auditing and Enforcement**

Tuesday, December 16<sup>th</sup>

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Questions



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