



2025 Labor Law & HR Update

January 7, 2025

WELCOME

- ▶ Slide handouts are attached to the meeting chat.
- ▶ All attendees will remain muted during presentation.
- ▶ This presentation is being recorded so don't feel like you need to take notes feverishly. We will share the recording link with all attendees after the session.
- ▶ Please use Zoom's Question and Answer (Q&A) feature to submit your questions. We will address as many as time allows.
- ▶ Questions or Concerns? Please contact Jennifer or Terri for assistance at 530.223.4674.

SPEAKERS

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MEET THE TEAM

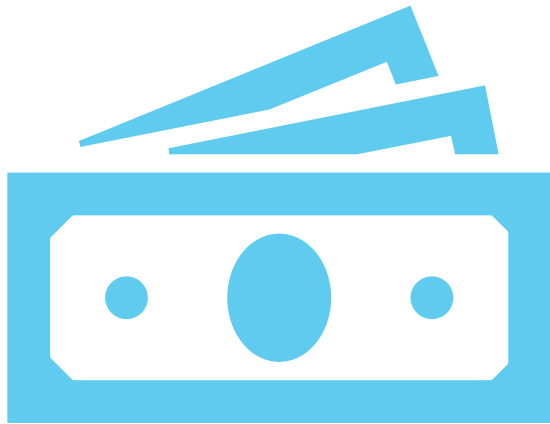


AGENDA

- ▶ Introduction
- ▶ Housekeeping
- ▶ Wage & Hour
- ▶ PAGA Reform & Arbitration
- ▶ Workplace Safety
- ▶ Leaves of Absence
- ▶ EEO & Reasonable Accommodations
- ▶ Union Issues & NLRB Decisions
- ▶ Preparing for 2025 - Follow-up with Q&A

DISCLAIMER | HOUSEKEEPING

The information provided in this webinar and PowerPoint is intended for general informational purposes and serves as a summary overview. While we make every effort to present this information accurately, many details, explanations, and qualifiers have been omitted. This content is not intended to convey legal advice and is not a substitute for consulting with a qualified attorney. As always, you should seek legal counsel before acting on any of the information presented.



WAGE & HOUR

CA STATE MINIMUM WAGE

- ❖ Effective January 1, 2025, California's general minimum wage has increased to \$16.50 per hour statewide.

NOTE: Some municipalities have a higher minimum wage (e.g., San Francisco, Sonoma, Emeryville)

CA STATE MINIMUM WAGE

- ❖ Fast Food Minimum Wage: \$20/hour
 - Fast Food Council could increase this by up to 3.5% but has not yet implemented any increase for 2025.
- ❖ Health Care Worker Minimum Wage:
 - Took effect October 16, 2024.
 - Varies depending on size and other factors for covered health facilities, ranges from \$18 - \$23/hour.
 - Effective July 1, 2025, Hospitals and dialysis clinics increases to \$24/hour.
 - For more information - [Health Care Worker Minimum Wage](#)

CA STATE MINIMUM WAGE

- ❖ Minimum salary for exempt employees under California law is \$68,640/year (\$1,320/week) for general workers.

NOTE: Tied to minimum wage (2x applicable minimum wage) so minimum salary will be higher in certain locales, and for covered fast food and health care workers.

CA STATE MINIMUM WAGE

- ❖ Tool Wage: Employees required to provide and maintain their own tools and equipment for their trade or craft must be compensated at a rate of at least twice the applicable minimum wage.
- ❖ This requirement applies across all industries and is outlined under “Uniforms and Equipment” in Wage Orders 1-16.
 - Refer to exemptions in the applicable wage order for employees who work in beauty salons, barber shops, beauty schools and similar businesses.

COMPUTER SOFTWARE & PHYSICIAN EXEMPTIONS

- ❖ Computer Software: \$56.94/hour or \$118,657.43/year
- ❖ Physician: \$101.22/hour

DEPARTMENT OF LABOR (DOL) FINAL RULE FOR OT EXEMPTION

- ❖ Raised the federal salary threshold for white-collar overtime exemptions to \$844/week
- ❖ BUT, vacated by a federal court in Texas, which stopped the rule nationwide.
- ❖ Old level remains in effect: \$684/week (\$35,568/year)

DOL INDEPENDENT CONTRACTOR RULE

- ❖ 6 factor economic realities test and rescinded prior rule under last Trump administration.
- ❖ Could swing back under new administration.
- ❖ California law is still more stringent with ABC Test.

SB99 FREELANCE WORKER PROTECTION ACT

- ❖ Agreements with certain independent contractor freelancers for \$250+ must be in writing.
- ❖ Hiring entity must pay freelancer on or before date set out in agreement, or if none, not later than 30 days after completion of the freelancer's services.

CASES TO WATCH - ROUNDING POLICIES

- ❖ *Camp v. Home Depot USA, Inc.*, 84 Cal.App.5th 638 (2022), *review granted* Feb. 1, 2023
 - Held: rounding “total time” is unlawful
 - Noted in dicta: if an employer has captured the exact amount of time worked during a shift, the employer must pay for all time worked.
- ❖ *Woodworth v. Loma Linda Univ. Med. Ctr.*, 93 Cal.App.5th, *review granted* Nov. 1, 2023
 - Held: if the employer can capture the exact number of minutes worked, the employer must pay for all the time and not round.

TIP: Stop rounding - Pay as precisely as you capture!



PAGA REFORM & ARBITRATION

WHAT IS PAGA?

- ❖ Private Attorneys General Act, Administered by the Labor & Workforce Development Agency (LWDA).
- ❖ Allows employees to assist the state in enforcing labor laws by suing their employers on behalf of the state for violations of the Labor Code to recover civil penalties.
- ❖ Employees can bring action on behalf of themselves and other current or former employees.
- ❖ Private employers are subject to PAGA lawsuits
- ❖ For more information: [Private Attorneys General Act \(PAGA\) FAQ](#)

AB 2288 & SB92 PAGA REFORM

- ❖ Passed as a compromise to ballot initiative, resulting in more moderate changes.
- ❖ Employee must have personally suffered alleged violations within 1 year of filing PAGA notice letter with the LWDA.
- ❖ Added additional mechanisms for courts to limit evidence and/or scope of PAGA claim.

AB 2288 & SB92

PAGA REFORM

- ❖ Wage statement penalties reduced and capped.
- ❖ \$25 for technical violations (e.g., inaccurate employer name and address) and where employee can easily determine required information.
- ❖ No derivative penalties for substantiative violations (e.g., no stacking waiting time penalties and wage statement penalties).

AB 2288 & SB92

PAGA REFORM

- ❖ Small employers (99 and fewer employees) have the ability to cure, or correct, certain violations.
- ❖ 33 days from receipt of PAGA notice to submit confidential cure proposal to LWDA, who oversees cure process.
- ❖ Large employers (100+ employees) cannot cure violations but can apply for early neutral evaluation with early stay.

AB 2288 & SB92

PAGA REFORM

- ❖ Curing a violation requires the following:
 - Correcting the alleged violation.
 - Compliance with the statute alleged to have been violated
 - Making each aggrieved employee whole.
 - If employee is owed wages, cure must include unpaid wages back 3 years from notice, seven percent (7%) interest, any liquidated damages, and reasonable attorney's fees and costs.
- ❖ Curing wage statement violations:
 - Provide fully compliant wage statement to each aggrieved employee for each pay period, going back 3 years.
 - Provide written notice of the correct information to each aggrieved employee.

AB 2288 & SB92

PAGA REFORM

- ❖ Reduced and potentially NO penalties if an employer cures a violation and takes all reasonable steps to comply with the law (e.g., payroll audits, lawful policies, disciplining rogue supervisors).
 - All reasonable steps toward compliance *before* receiving PAGA letter caps penalties at 15%.
 - All reasonable steps toward compliance *after* receiving PAGA letter caps penalties at 30%.
- ❖ Curing can be expensive.

TAKEAWAY: Compliance is the best defense and the best offense.

ARBITRATION CASE LAW DEVELOPMENTS

Waiver of Right to Arbitrate

- ❖ *Suarez v. Sup. Ct. of San Diego County*, 99 Cal.App.5th 32 (2024)
 - Failing to timely pay arbitration fees waives employer's right to arbitrate.
 - Per California Code of Civil Procedures §1281.97, invoice must be paid within 30 days of date of issuance.

- ❖ *Semprini v. Wedbush Sec. Inc.*, 101 Cal.App.5th 518 (2024)
 - Unreasonable delay moving to compel arbitration following a change in the law deemed a waiver of right to arbitrate

ARBITRATION CASE LAW DEVELOPMENTS

- ❖ Re-hired employees must sign a new arbitration agreement [*Vazquez v. SaniSure Inc.*, Cal.App.5th 139 (2024)]
 - After a break in employment, employee did not sign a new arbitration agreement when re-hired.
 - Court held first agreement did not apply where employee's claims arose solely from second stint.

ARBITRATION CASE LAW DEVELOPMENTS

- ❖ *Ramirez v. Golden Queen Mining Co.*, 12 Cal.App.5th 821 (2024)
 - Employee didn't recall signing agreement, argued it was unenforceable because employer could not authenticate his signature.
 - Court said no - employees who recognize their own handwritten signature and do not dispute their signature cannot avoid arbitration agreement.
 - Court applied 3-part burden shifting to assess agreements authenticity.
 1. Employer provides prima facie evidence (e.g., signed agreement).
 2. Employee must provide evidence of factual dispute of the document's authenticity.
 3. Burden shifts back to employer to prove the signature is authentic.

ARBITRATION CASE LAW DEVELOPMENTS

- ❖ *Ramirez v. Golden Queen Mining Co.*, 12 Cal.App.5th 821 (2024) - CONT.
 - There is a circuit split in California:
 - Some courts have held that an employee can overcome a signed arbitration agreement by submitting a declaration that they do not remember the agreement.

TAKEAWAY: Employers must ensure agreements are properly signed or authenticated. Employers should also take additional steps to document the process of when and how it was presented and signed.



WORKPLACE SAFETY

WORKPLACE POSTINGS

- ❖ New Poster - Employee rights & responsibilities under state and federal Whistleblower law.
 - Effective January 1, 2025
 - Labor Commissioner prepared a [model poster](#).
- ❖ Updated Workers' Compensation Notice
 - Must include information about an employee's right to consult a licensed attorney.
 - For all requirements: [AB-1870 Notice to employees: legal services](#).

COVID - 19

- ❖ Regulations governing COVID-19 protections, including COVID-19 Prevention Plan requirement, will end February 3, 2025.
 - Recordkeeping requirements for COVID-19 cases remain in effect until February 3, 2026.
 - COVID-19 may still be a workplace hazard covered by a general Injury & Illness Prevention Plan (IIPP).

INDOOR HEAT ILLNESS PREVENTION

- ❖ Effective July 23, 2024, a written Indoor Heat Illness Prevention Plan may be required.
- ❖ Covers *most* indoor workplaces where temperature is 82° F or greater when employees are present; restaurants, warehouses, manufacturing facilities.
- ❖ Requirements under Cal/OSHA:
 - Access to fresh, cool water readily available at no cost, cool-down areas.
 - Encourage additional/preventative cool-down breaks.
 - Monitor and track indoor temperatures.
 - Implement emergency response procedures for heat-related illnesses.
- ❖ For more information: [Indoor Heat Illness Prevention](#).

WORKPLACE VIOLENCE PREVENTION PLAN

- ❖ Effective July 1, 2024, most employers need to develop and implement a written plan in compliance with Labor Code section 6401.9.
 - Exception: Fewer than 10 people present at any given time and premises is not open to the public.
- ❖ “Workplace Violence” means any act of violence or threat of violence that occurs in a place of employment.

WORKPLACE VIOLENCE PREVENTION PLAN

- ❖ Required elements of the Plan:
 - Procedures to prevent and respond to the four (4) types of violence -
 - Type 1: Violence committed by a person with no legitimate business at the workplace.
 - Type 2: Customer/Client violence.
 - Type 3: Worker-on-Worker violence, including current or former employees, manager or supervisor.
 - Type 4: Personal Relationship violence.
 - Employees must be trained on the plan initially and annually.
- ❖ For all requirements and plan template: [Model Workplace Violence Plan for General Industry](#).

SB 428

RESTRAINING ORDERS

- ❖ SB 428 Expands employer's ability to get a restraining order on behalf of an employee.
- ❖ Previously, the employee had to experience a “credible threat of violence”, now expanded to include employees who have suffered harassment.
 - “Harassment” - a knowing and willful course of conduct directed at a specific person that seriously alarms, annoys, or harasses the person, and that serves no legitimate purpose.

SB 1350

DOMESTIC SERVICES

- ❖ CalOSHA now covers domestic services, which was previously excluded from its jurisdiction.
- ❖ SB 1350 removes the exemption, extending its authority over services such as home healthcare workers, nannies, cooks, gardeners, and housekeepers.
- ❖ Individuals hiring individual workers for domestic services in their own home are generally exempt.

CalOSHA

LEAD EXPOSURE PREVENTION

- ❖ Effective January 1, 2025, CalOSHA has updated Construction and General Industry Safety Orders to enhance worker protection against lead exposure.
 - Lowered action levels from 30 micrograms of lead per cubic meter to 2.
 - New classifications have been introduced to better categorize tasks based on lead exposure risk.
 - Duration of work activities requiring protective measures has been shortened, prompting quicker responses to lead exposure.
- ❖ For more information: [Cal/OSHA Occupational Lead Exposure Prevention Guidance and Resources](#)



LEAVES OF ABSENCE

AB 2123

PAID FAMILY LEAVE

- ❖ Effective January 1, 2025, employers in California can no longer require employees to use accrued vacation before accessing Paid Family Leave (PFL) benefits.

TIP: Review written policies to ensure compliance.

FYI: Claimants may now initiate PFL & SDI claims up to 30 days in advance of the anticipated first compensable day.

FAMILY LEAVE MEDIATION PROGRAM EXPANSION

- ❖ Small employers with 5-19 employees can participate in fast-track mediation for allegations involving family leave, medical leave, and bereavement.
- ❖ The program now also covers reproductive loss leave claims.

AB 2499

VICTIMS OF VIOLENCE

- ❖ Time off has been expanded from employers with 25+ employees to employers with 1 or more employees where the *employee is the victim*.
- ❖ Time off for employee *whose family member is a victim* is still limited to employers with 25+ employees.
- ❖ Moves jury, court, and victim time off provisions to the Government Code, to be enforced by CRD.

AB 2499

VICTIMS OF VIOLENCE

- ❖ Detailed reasonable accommodation obligations apply to employers with 1+ employees.
- ❖ Law effective January 1, 2025, but mandatory posting requirement does not take effect until July 1, 2025 (Labor Commissioner will create a form).
- ❖ Employees allowed to use paid sick leave or any other type of accrued paid leave to cover jury duty.

SB 1105

AG WORKER SICK LEAVE

- ❖ Agricultural employees as defined in Wage Orders 8, 13, and 14.
- ❖ Gives agricultural workers the ability to use paid sick leave to cover absences due to heat, smoke, or flooding conditions and where the state or local government declares an emergency.

FMLA

OPINION LETTER 2024-1-A

- ❖ Employee participating in prescription drug trials qualified for leave under FMLA.
- ❖ Although medical trials were voluntary, it did not put it outside the scope of FMLA - that was not relevant to coverage.



EEO & REASONABLE ACCOMMODATIONS

SB 1137

INTERSECTIONALITY

- ❖ Expands FEHA provisions relating to discrimination by blending protected categories into a new form of intersectional protection.
- ❖ The bill's language provides that protected categories include:
 - a) Any combination of protected characteristics;
 - b) A perception that a person has characteristic(s) within a protected category;
 - c) Perception that a person associated with a person who has or is perceived to have a protected characteristic or combination of protected characteristics.

TAKEAWAY: Update definitions of protected characteristics in EEO and Harassment, Discrimination and Retaliation policies.

PREGNANT WORKERS FAIRNESS ACT (PWFA)

- ❖ Same coverage requirements as Title VII (15+ employees)
- ❖ Requires employers to provide reasonable accommodations for physical and/or mental “limitation” related to, affected by, or arising out of pregnancy, childbirth, or related medical conditions - unless doing so causes an undue hardship on the employer.
- ❖ “Limitation” is much broader than “disability” under the ADA.

PREGNANT WORKERS FAIRNESS ACT (PWFA)

- ❖ Employers are limited in when they can ask for medical certification or doctor's note - it must be *reasonable*.
- ❖ It is not reasonable to ask for a note for any of the following so-called “predictable assessments” -
 - Allowing employee to keep water nearby;
 - Allowing restroom breaks;
 - Allowing employee to sit/stand;
 - Additional breaks to eat and drink.
- ❖ Existing California law has required employers to provide reasonable accommodations for pregnant workers under FEHA for years.
- ❖ BUT certain aspects of the federal regulation are more generous than California law.

SB 1100

DRIVER'S LICENSE REQUIREMENT

- ❖ Effective January 1, 2025, employers are prohibited from including a driver's license as a requirement in a job posting, application or related materials *unless*:
 - Driving is reasonably expected to be an essential function of the job, and
 - Employer reasonably believes that function cannot be performed using an alternate mode of transportation.

CASE LAW DEVELOPMENT

- ❖ Religious Accommodations (*Groff v. DeJoy*):
 - A USPS employee requested Sundays off for religious reasons.
 - He faced progressive discipline for refusing to work on Sundays.
 - Employee resigned and sued under Title VII under the Civil Rights Act, arguing that USPS could accommodate his religious practice without causing undue hardship.

- ❖ Employers must accommodate religious practices unless they can demonstrate that doing so would impose an undue hardship or significant costs.



UNION ISSUES & NLRB DECISIONS

SB 399

CAPTIVE AUDIENCE MEETINGS

- ❖ Prohibits employers from retaliating against employees who choose not to attend meetings discussing religious or political matters.
 - Penalties of \$500 per employee, per violation.
- ❖ NLRB held captive audience meetings are unlawful; they violate Section 8(a)(1) because they interfere with employees' exercise of Section 7 rights to engage in concerted activities.

POLITICAL STATEMENT AS CONCERTED ACTIVITY

- ❖ Home Depot USA, Inc., 373 NLRB No. 25 - Employee complained about race discrimination and regularly discussed offensive conduct of one coworker with other coworkers of color.
- ❖ Employer later noticed BLM initials on the employee's work apron, asserted it was a dress code violation and instructed he not return to work until removed.
- ❖ NLRB found the employee demonstrated that the BLM initials were connected to concerted activity.

NEXT STEPS

- ✓ Ensure compliance with minimum wage updates
- ✓ Post updated labor law posters & wage orders
- ✓ Review and implement required workplace safety plans
- ✓ Review and update arbitration agreements
- ✓ Consider implementing wage and hour audits in coordination with legal counsel
- ✓ Update handbook policies -
 - Leaves for victims of crime/violence
 - Expanded use of paid sick leave
 - Driver's license requirements
 - Unlawful Harassment, Discrimination & Retaliation to include intersectionality



QUESTIONS



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