

EMPLOYMENT CLASS AND COLLECTIVE ACTIONS

OVERVIEW

Our Employment & Labor Class Action Practice offers high-caliber experience in a full range of legal issues, with an emphasis on the federal Fair Labor Standards Act (FLSA) and state wage and hour laws. We regularly act as national counsel, leading the defense of employment class, collective and other state-specific representative actions across the country. These cases regularly involve multi-phased discovery, hybrid opt-in and opt-out class and collective action procedures, multiple and differing subclasses, extensive and complex briefing, complicated strategic considerations, and contentious evidentiary hearings. Our team is experienced in handling all aspects of the defense of these unique and complex cases. The defense of these matters often results in post-litigation/post-settlement remedial measures, including reclassification of employees/independent contractors, implementation of new payroll and timekeeping systems and protocols, overtime/regular rate of pay compliance, meal/rest break compliance, implementation of new expense reimbursement practices, and revisions to written wage and hour policies/handbooks. We regularly help our clients mitigate wage and hour litigation risk in state and federal courts throughout the country.

Our practice is nationwide, handling class and collective actions throughout the country, including state and federal courts in Pennsylvania, New York, Indiana, Florida, New Jersey, New York, North Carolina, Missouri, Tennessee, Texas, Colorado and Oregon, among others. Most of these cases involve allegations of unpaid pre- and post-shift work, tipping and tip credit issues, misclassification claims and unlawful deduction claims. Our team is also well-versed in assisting employers with navigating California's unique regulatory environment, and we have a well-known dedicated California team. We recognize that, for employers that are headquartered outside of California, the challenges of California's highly regulated and pro-employee work environment can be daunting and that California-based solutions are not always the best answer for the company as a whole. California poses unique challenges for our clients due to its progressive and evolving Labor Code coupled with the Private Attorneys General Act (PAGA), which dramatically increases exposure to employment class actions. We regularly work with clients in addressing these and other California compliance matters, investigations and in responding to audits and administrative complaints to state and local agencies.

EXPERIENCE

- Obtained summary judgment on a joint employer claim in a wage-and-hour putative class and collective action that not only disposed of all claims against one of the co-defendants, but it reduced the size of plaintiff's proposed collective action from approximately 30,000 employees across the country to just 800 employees in one location.
- Successfully defeated conditional certification of a nationwide class of call center employees by moving to enforce arbitration agreements that contained class arbitration waivers.
- Served as co-lead counsel on a multidistrict litigation challenging the exempt classification of nearly 15,000 assistant branch managers at a car-rental company's locations across the U.S. From start to finish, the case was litigated more than seven years in 16 jurisdictions. After some key victories on class-specific legal issues and an unwavering resolve to defend the case, we were able to leverage a remarkable settlement in favor of our client.
- Successfully defeated class certification in a putative class action against our client, a logistics company, alleging claims related to independent contractor status and expense reimbursement.
- Represented a Fortune 500 food production company as defendant-appellant in connection with a lawsuit alleging violations of the FLSA and Nebraska wage and hour laws related to the donning and doffing of sanitary, protective gear. We secured the reversal of a \$19 million judgment.
- Represented a subsidiary of one of the nation's leading providers of recruitment and workforce solutions as defendant in a putative wage and hour class action alleging violations of FLSA and Illinois Minimum Wage Law, Illinois Wage Payment and Collection Act, and the Illinois Day and Temporary Labor Services Act. Case settled on favorable terms.
- Represented national retailer in a wage and hour class action alleging a violation of FLSA, the Illinois Minimum Wage Act, and the Illinois Wage Payment and Collection Act.
- Successfully defeated class certification in a putative class action, alleging misclassification of assistant store managers of national electronics chain.
- Successfully represented a bakery restaurant group as the defendant in a wage and hour class action brought on behalf of tipped employees alleging violations of the FLSA and New York labor laws. We negotiated a favorable settlement.
- Represented an American multinational aerospace and defense company as defendant in a class action lawsuit alleging age and race discrimination and human rights violations related to employment practices.

California Representative Actions

- Litigated a class and representative PAGA action against a national retailer, alleging misclassification of the company's store managers. On the eve of a class certification decision, we negotiated a steeply discounted settlement for the client.
- Successfully defeated class certification against one of the largest pharmacy retailers in the United States, involving various wage and hour claims under California law. The favorable certification ruling resulted in a discounted settlement in exchange for dismissal of an appeal.
- Successfully defeated class certification on appeal in a California appellate court in a putative class action filed against our client, a leading global provider of vehicle rental services, alleging claims related to independent contractor status and expense reimbursement.
- Currently defending a mass action (comprised of 102 individual plaintiffs) alleging misclassification of exempt retail store managers.
- Denial of class certification affirmed on appeal in independent contractor and expense reimbursement class action.
- Obtained summary judgment for client in class action alleging violations related to interview time.
- Defeated motion to certify class action in meal and rest period, rounding and tool expense class action.
- Defeated class certification in prevailing wage, travel time, and meal and rest period class action.
- Successfully compelled arbitration in class action alleging overtime, meal period, itemized wage statement and waiting time penalty claims.
- Successfully defeated class certification in a putative class action alleging issues related to prevailing wage, travel time, and meal and rest periods against a pipeline construction company.
- Successfully moved to dismiss class action allegations for violation of California's Unfair Competition Law at the pleading stage and prevailed on appeal in a published decision.
- Obtained judgment on the pleadings and dismissal of representative PAGA meal/rest break case.
- Successfully moved to de-certify a class action against a national freight company, alleging misclassification of managers as exempt from overtime laws, meal/rest break violations, and derivative California Labor Code violations.

- Successfully moved to strike PAGA claim alleging meal/rest break violations against a restaurant chain.
- Successfully defeated class certification in a putative class action alleging expense reimbursement violations under California law against a financial services institution.
- Successfully defeated class certification in a putative class action in California state court against our client, a Fortune 500, worldwide, diversified manufacturer of complex metal components and products servicing aerospace, defense, oil and gas, and general industrial markets, alleging wage and hour violations relating to meal and rest periods, rounding and tool expense.
- Successfully represented a California restaurant in a wage and hour class action lawsuit brought on behalf of wine garden serving personnel related to the payment of overtime wages, wage conversion rates, payment, allowance of meal and rest periods, and various business practices. We negotiated a favorable settlement.

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Coronavirus: UK Job Retention Scheme – government fills in some gaps in the guidance

As an update to our 27 March blog “Coronavirus: UK Job Retention Scheme – further government guidance”, the UK government has revised its online guidance to provide more information on how the Coronavirus Job Retention Scheme (CJRS) operates. A number of points have been clarified, whilst some important issues have still not been addressed.