

RAINESFELDMAN

LABOR & EMPLOYMENT LAW UPDATE: WHAT'S NEW FOR 2022?

January 12, 2022

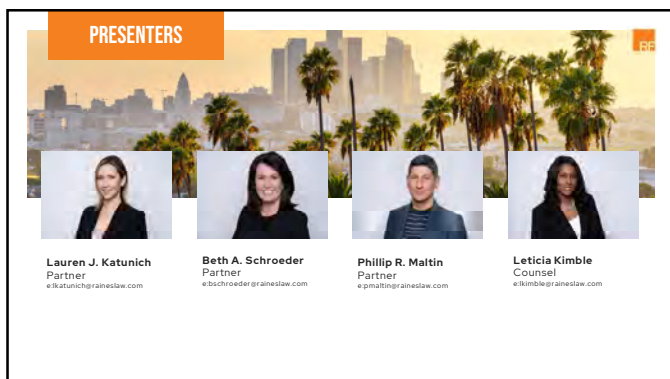




1



2



3



ROAD MAP AHEAD

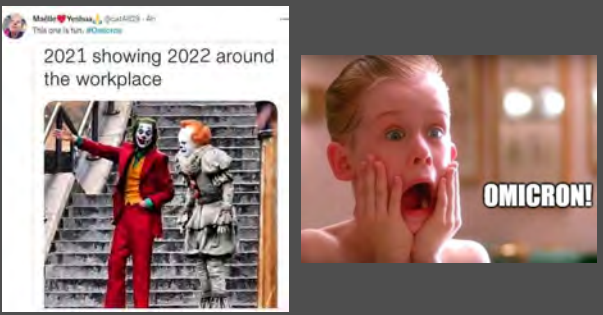
- COVID-19 in the Workplace
- Legislative Update
- Legislative Update: Wage & Hour
- PAGA Trends
- Additional New CA Laws
- Predictions for 2022

4



COVID-19 IN THE WORKPLACE

5



Mallory Verhulst @GAMG23 · 4h
This one is fun. #Omicron

2021 showing 2022 around the workplace

OMICRON!

6



VACCINE MANDATES: ARE THEY IN OR ARE THEY OUT?

Federal Government Mandates

Biden Administration OSHA 100+ Employee ETS

- Numerous legal challenges to the ETS; stays of enforcement issued
- December 17, 2021, Sixth Circuit lifts stay, finding that the injuries asserted by ETS's challengers were too speculative and the costs of delaying implementation of the ETS were comparatively high
- Emergency applications to SCOTUS and hearing on January 7, 2022
- **Is it dead or alive????**

7



OSHA ETS: THE WHO

- To determine 100 employee threshold, must include all employees across all U.S. locations, regardless of employee's vaccination status or where they perform their work (indoors, outdoors, from home, etc.)
- Part-time employees count but independent contractors do not
- Single, corporate entity with multiple locations must count all employees at all locations
- Franchises: Franchisor only counts corporate employees. Franchisee counts employees at individual location
- Staffing agencies: only staffing agency counts jointly employed employees

8

OSHA ETS: THE WHAT

Employers must establish, implement, and enforce a written policy requiring either vaccination or providing proof of weekly COVID-19 testing and masking in the workplace:

Mandatory Vaccine Option:

- Employee must be fully vaccinated (exceptions for religious and medical accommodations)
- Employer must follow OSHA-approved guidance on determining and keeping record of vaccination status
- Employer must provide paid time to receive and recover from the vaccine

Vaccine-or-Test Policy:

- Employee who reports at least once every 7 days to a workplace where others are present must be tested for COVID-19 at least once every 7 days
- Employee who does not report at least once every 7 days must provide proof of negative COVID-19 test prior to returning to workplace
- The ETS does not require employers to pay for costs associated with testing



9



VACCINE MANDATES: ARE THEY IN OR ARE THEY OUT?

State Government Mandates - Examples

CA Department of Public Health - Healthcare Workers

- Employees of Health Care Facilities must have received second dose of a two-dose regimen by September 30, 2021
- Employees eligible for booster dose must receive it no later than February 1, 2022
 - Moderna: Booster dose 6 months after 2nd dose
 - Pfizer-BioNTech: Booster dose 5 months after 2nd dose
 - J&J: Booster dose 2 months after 1st dose
- If not eligible for booster as of Feb. 1, 2022, must receive booster w/in 15 days of becoming eligible
- Weekly testing option only available if qualify for valid medical or religious exemption

10

VACCINE MANDATES: ARE THEY IN OR ARE THEY OUT?

Examples of Local Vaccine-or-Test Mandates:

<p>LADPH recent Institute of Higher Education Protocols</p> <ul style="list-style-type: none"> Weekly asymptomatic screening testing is required for all students and staff who are not up to date on their COVID vaccination status 	<p>LADPH Vaccine Mandates for Certain Public Accommodations</p> <ul style="list-style-type: none"> People do not have to be vaccinated to enter certain indoor public spaces, including bars, libraries, restaurants, etc. Only employees are eligible for request of medical accommodations Unvaccinated must use outdoor portion of facility City of LA mandate covers additional businesses 	<p>LADPH Indoor or Outdoor Mega-Events</p> <ul style="list-style-type: none"> Must provide proof of full vaccination or proof of a negative COVID test within one day if antigen test or two days if PCR test
--	---	---

11



VACCINE MANDATES: ARE THEY IN OR ARE THEY OUT?

Employer Mandates

- Employers may mandate vaccines when job-related and consistent with business necessity
- Challenges to employer-mandated policies have almost unanimously favored employers
 - 5th Circuit rejects request for injunction blocking mandate for United Airline employees
 - The Southern District of Texas (federal): *Bridges et al. v. Houston Methodist Hospital et al.* (June 12, 2021)
 - District Court in South Carolina (federal): *Bauer v. Summey* (October 21, 2021)
 - Only pro-challenger rulings involve exceptions to mandates rather than validity of mandates themselves (e.g., NY rule enforcing its healthcare worker vaccination rule on those w/ religious objections)
 - SCOTUS rejects bid to block vaccine mandates for NY healthcare workers and Indiana University

12



VACCINE MANDATES: ARE THEY IN OR ARE THEY OUT?

Employer Mandates

- The EEOC and DFEH have blessed mandatory vaccination requirements
- However, employers must explore accommodations for those with religious or medical reasons for not receiving the vaccine
- Differences in rules for vaccinated versus unvaccinated workers incentivize employers to require vaccinations (not as much an incentive as before)

13



RELIGIOUS EXEMPTIONS

- Employees may request an exemption from vaccine requirements based on their sincerely held religious beliefs
- Employers only need to grant an exemption if it is "reasonable" to do so. Employers choose the accommodation, not employees
- You've received a form letter, assumedly, rattling off reasons an employee is opposed to the vaccine. What's next?...

14



RELIGIOUS EXEMPTIONS

- Make sure the employee stated their religion and the tenet thereof that justifies their refusal, or ask the employee for that information (i.e., Christian, opposed to use of aborted fetal cells)
- Clarify which of the employee's points are religious versus general opposition (e.g., generally, the EUA status of vaccines with the FDA is not religious) and detail the distinctions to the employee
- Unless obviously fake, do not question the employee's belief
- Explore how the employee can be exempted from the vaccine requirement, which may include workplace changes, masking, testing, leaves of absence, and work from home
- If no accommodation is possible, document the reasons why you cannot accommodate the employee

15

THE ACCOMMODATION BALANCING ACT

- May not need to accommodate an employee if the accommodation poses a **"direct threat"** to the health or safety of the employee or others
- The employer must determine if a reasonable accommodation could eliminate that direct threat. Potential reasonable accommodations could include:
 - Wearing a mask
 - Staggered shifts
 - Remote work
 - Reassigning the employee to a different shift or position
 - Leave of absence



16

CAL/OSHA EMERGENCY TEMPORARY STANDARDS (ETS) RECENTLY UPDATED

- Cal/OSHA issues a proposed ETS in June 2020
- After much back and forth and public commentary, Cal/OSHA adopted the original ETS on November 30, 2020 (note: conflicted with state and local public health agency orders and guidance)
- On June 17, 2021, Cal/OSHA's revisions to ETS to better match CDPH guidelines take effect
- On December 16, 2021, Cal/OSHA readopts and revises earlier ETS, including revisions to make the workplace rules consistent with updated CDPH guidance (effective January 14, 2022)

17

CAL/OSHA COVID-19 PREVENTION PROGRAM

- Employers must have written COVID-19 Prevention Program which, among other things, addresses:
 - System for communicating
 - Identification and evaluation of COVID-19 hazards
 - Investigating and responding to COVID-19 cases in the workplace
 - Correction of COVID-19 hazards
 - Training and instruction
 - Face coverings (for unvaccinated employees)
 - Other engineering controls (e.g., partitions), administrative controls (e.g., cleaning protocols), and personal protective equipment (e.g., evaluate need for PPE)
 - Reporting, recordkeeping, and access
 - Exclusion of COVID-19 cases
 - Return to work criteria



18

IMPORTANT REVISIONS TO CAL/OSHA ETS

(Effective January 14, 2022)



Investigating and Responding to COVID-19 Cases in Workplace

- Employees must continue to notify employees of possible COVID-19 exposures within one (1) business day. New, clearer notification instructions provided in revised ETS

Face Coverings

- Employees exempted from face coverings due to medical condition or disability that cannot wear non-restrictive alternative must physically distance at least six (6) feet and be fully vaccinated or tested weekly for COVID-19

Testing and Exclusion

- Employers required to make COVID-19 testing available at no cost and during paid time to employees, including to those fully vaccinated, even if asymptomatic. FDA-approved at-home tests are acceptable but must be lab-confirmed or proctored
- During outbreaks and major outbreaks, must make weekly testing (outbreaks) and twice-weekly testing (major outbreaks) available to all employees in exposed group

- Employees who have been recently recovered from COVID-19 and those who are fully vaccinated are not required to be excluded but must wear a face covering and maintain six (6) foot distance for 14 calendar days from last contact

- Return to Work Criteria**
 - Updated to align with CDPH guidance automatically

19

QUARANTINE, ISOLATION, & MASKING REQ'TS

LADPH and CDPH

ISOLATION AFTER CONFIRMED OR PRESUMED POSITIVE CASE OF COVID-19

Do You Have Symptoms?	How Long Do You Have To Isolate For?	Mask Requirements
Yes	<p>Must stay home until:</p> <p>Testing Option</p> <ul style="list-style-type: none"> • At least 5 days have passed since your symptoms first started ("Day 1" is the day <u>after</u> you first experienced symptoms) and • You have not had a fever for at least 24 hours; and • Your symptoms are improving; and • You have a negative COVID-19 test collected on Day 5 or later. <p>Non-Testing Option</p> <ul style="list-style-type: none"> • At least 10 days have passed since your symptoms first started; and • You have not had a fever for at least 24 hours; and • Your symptoms are improving. 	<p>Wear a well-fitted, non-cloth mask, both indoors and outdoors for a total of 10 days while you are around others. The mask should be medical grade (surgical or respirator).</p>
No	<p>Must stay home until:</p> <p>Testing Option</p> <ul style="list-style-type: none"> • At least 5 days have passed since your initial positive test was taken ("Day 1" is the day <u>after</u> your positive test was taken); • You have a negative COVID-19 test collected on Day 5 or later. • No symptoms have developed. <p>Non-Testing Option</p> <ul style="list-style-type: none"> • At least 10 days have passed since your initial positive test and no symptoms have developed. 	<p>Wear a well-fitted, non-cloth mask, both indoors and outdoors for a total of 10 days while you are around others. The mask should be medical grade mask (surgical or respirator).</p>

Note: If you develop symptoms during the isolation period, you must follow the "Yes" row above and your isolation period will restart from the day symptoms first arose.

20


QUARANTINE, ISOLATION, & MASKING REQ'TS

LADPH and CDPH

QUARANTINE FOLLOWING "CLOSE CONTACT"

Have Symptoms?	I Am Fully Vaccinated (primary doses plus booster if eligible) and Boosted (or not Boosted Single)	How Long Do I Have To Quarantine For?	Testing Requirements	Mask Requirements	Is there Anything Else I need to Do?
No	Assuming you do not develop symptoms, you don't have to quarantine.	BUT see Cal/OSHA requirements!	No testing required but testing on day 5 after last exposure recommended.	Wear a well-fitted, non-cloth mask, both indoors and outdoors while you are around others for a total of 10 days since your last exposure. The mask should be medical grade (surgical or respirator).	Monitor yourself for symptoms for 10 days following your last exposure.
Yes	Follow "Isolation" requirements	Follow "Isolation" requirements	Follow "Isolation" requirements	Follow "Isolation" requirements	Follow "Isolation" requirements
Have Symptoms?	I Am NOT Fully Vaccinated Or Not Boosted (if Booster-Eligible)	How Long Do I Have To Quarantine?	Testing Requirements	Mask Requirements	Is there Anything Else I need to Do?
No	Quarantine until:	With Testing	You must test for COVID-19 on Day 5 after your last exposure ("Day 1" is the day <u>after</u> your last exposure). May use FDA-approved at-home tests.	Wear a well-fitted, non-cloth mask, both indoors and outdoors while you are around others for a total of 10 days since your last exposure. The mask should be medical grade (surgical or respirator).	Monitor yourself for symptoms for 10 days following your last exposure.
Yes	Without Testing	• If you are unable to test or choose not to, and symptoms are not present, quarantine can end after Day 10.	BUT see new LADPH Health Order!	Follow "Isolation" requirements	Follow "Isolation" requirements

21



ADDITIONAL LADPH PROTOCOLS...

MAKE IT MAKE SENSE!

- LADPH amended its Health Order once again on January 10, 2022 (3rd time it was amended in the last 11 days)
- The new Order provides that in a workplace setting, vaccinated employees who are eligible for but have not received a booster shot can continue working after a close contact if:
 - They are asymptomatic
 - They get a viral test 3-5 days after last exposure
 - They wear a well-fitting medical grade mask, ideally an N95/K95 around others for a total of 10 days
 - They observe home quarantine while not at work
- Many open questions remain
 - How does this work with Cal OSHA's exclusion provisions which mirror CDPH's isolation and quarantine guidelines and require employees who are vaccinated but not boosted to quarantine after exposure? Which one prevails?
 - What does home quarantine mean and how does employer ensure employee does not leave home quarantine?

22



PER THE NEW HEALTH ORDER

(Unvaccinated or not fully vaccinated employees)

- In a workplace setting (not applicable to healthcare personnel), asymptomatic employees in this category may continue to work on the condition that:
 - They get a viral test within 3-5 days after their last exposure to a case;
 - They wear a well-fitting medical-grade mask, ideally an N95/K95, around others for a total of 10 days;
 - They remain asymptomatic; and
 - They observe home-quarantine when not at work.

23

SICK LEAVE & OTHER COMPENSATION REQ'TS	
Authority	Requirements
FFCRA/Supplemental COVID-19 Sick Leave	<ul style="list-style-type: none"> Expired September 30, 2021
OSHA Emergency Temporary Standard (100+ employees anywhere in US) (Pending)	<ul style="list-style-type: none"> Up to 4 hours paid time to receive vaccination doses. Provide reasonable amount of paid sick time for recovery from vaccine side effects. OSHA ETS does not require that a COVID-19 positive individual be paid for their time away from work while isolating.
Cal/OSHA Emergency Temporary Standard	<ul style="list-style-type: none"> Employees excluded from the workplace and forced to quarantine or isolate due to a workplace exposure must have their usual pay, benefits, and seniority maintained during their period of exclusion. (Note: importance of vaccination status). Statutorily mandated state sick leave (i.e., 24 hours) cannot be used to meet the above pay obligation. Employers may use paid leave benefits above the requirement of California's paid sick leave statute (i.e., vacation, local sick leave) to cover "exclusion" pay obligations.
Workers' Compensation	<ul style="list-style-type: none"> If employee can establish a work-related COVID-19 injury, workers' compensation will cover medical treatment and lost pay. Causation difficult to establish: presumption applies only in cases of an "outbreak." An "outbreak" exists if within 14 calendar days one of the following occurs at a specific place of employment: (1) four employees test positive for COVID-19 at a specific place of employment with 100 employees or fewer; (2) 4 percent of employees test positive for COVID-19 at a specific place of employment with more than 100 employees; or (3) the facility is ordered closed by a local public health department, the State Department of Public Health, Cal/OSHA, or a school superintendent due to a risk of infection with COVID-19.
LADPH/CDPH/CDC	<ul style="list-style-type: none"> Public health authorities do not mandate any leave or compensation for infected or quarantining employees.

24

COVID-19+ NOTIFICATION REQUIREMENTS

Do I need to Notify?

- Must **report** work-related illness.
- Must **report** illness resulting in in-patient hospitalization if employee develops symptoms while at work.
- Must **report** illness resulting in in-patient hospitalization even if symptoms develop outside of work if there is cause to believe the illness may be work-related.
- For employers outside of California and subject to OSHA regulations, employer must report in-patient hospitalization if the hospitalization occurs within 24 hours of the work-related incident.
- For cases of COVID-19, the term "incident" means an exposure to COVID-19 in the workplace.

Workers' Comp Carrier

- Yes, Employer must notify claims administrator with the following information:
 - An employee has tested positive;
 - The date the employee tested positive, which is the date the specimen was collected for testing;
 - The address or addresses of the employee's specific place of employment during the 14-day period preceding the date of the employee's positive test;
 - The highest number of employees who reported to work at the employee's specific place of employment in the 45-day period preceding the last day the employee worked at each specific place of employment.

Local Public Health Department

- Employers in Los Angeles County must report to County Health Department if a workplace has at least three reported or confirmed COVID-19 cases in the workplace within 14 days.
- For workites outside of Los Angeles County, similar requirements apply. The California Department of Public Health states employers must notify the local health department in the jurisdiction where the workplace is located if there is a known or suspected outbreak in the workplace. An outbreak is defined as three (3) or more laboratory-confirmed cases of COVID-19 among workers who live in different households within a two-week period.

Close Contacts of Infected Individual

- All employees who were in close contact with the infected individual during the infectious period be notified and asked to quarantine.
- Close contact is defined as a cumulative 15+ minutes within six-feet over a 24-hour period, or unprotected direct contact to body fluids starting from 48 hours of symptom onset or, if no symptoms within 48 hours of specimen collection, from positive COVID-19 test.

Entire Workforce

- Employers having notice of a potential COVID-19 exposure provide a written notice to:
 - Employees and subcontractor employees who were at the workplace when a potentially infected individual was there and may have been exposed to COVID-19 as a result.
- The notice should be drafted to protect employee privacy. The notice should also include information on COVID-19 benefits, the employee may be entitled to and the disinfection and safety plan the employer has implemented or plans to implement in accordance with guidance from the Centers for Disease Control and Prevention ("CDC").


25

COVID-19+ NOTIFICATION REQUIREMENTS					
	Cal/OSHA	Workers' Comp Carrier	Local Public Health Department	Close Contacts of Infected Individual	Entire Workforce
When do I need to notify?	Reports to Cal/OSHA must be made immediately, but not longer than eight (8) hours after the employer knows or with diligent inquiry would have known of the serious illness. Reports to OSHA must be made within 24 hours of knowing both that an employee has been hospitalized and that the reason for hospitalization was a work-related case of COVID-19.	Reports must be made in writing via electronic mail or facsimile within three (3) business days of learning of the exposure.	Immediately upon learning of a potential outbreak as defined above.	Immediately upon learning of possible exposure.	This notice must be provided within one (1) business day of the employer being notified of a potential exposure.
Where/how to notify?	Report by email to: caloshaaccidentreport@telus.com . Or find local reporting office here: https://www.dir.ca.gov/dosh/report-accident-or-injury.html	Direct to carrier or inquire with your broker	For Los Angeles only: call (888) 397-3993 or (213) 240-7821 to report an outbreak.	Contact tracing	Notification may be done in "a manner that the employer normally uses to communicate employment-related information," such as personal service, mail, or text message.

26



27



DFEH PROCEDURAL CHANGES


Preserve Documents (SB 807; Government Code Section 12946)

- Employers must preserve applications, personnel, membership, or employment referral records for at least four years
 - after records and files are initially created or received, and
 - after applicant not hired or employment relationship terminated
- If an employee files complaint against employer, employer must maintain and preserve records and files until
 - statute of limitations expire, or
 - matter resolves

Takeaways

- Draft policies; train on your policies
- Consult attorneys about timing
- When in doubt, preserve

28



DFEH PROCEDURAL CHANGES


Tolling of Statute of Limitations (SB 807; Government Code Section 12946)

- "Tolling" stops clock when employee files a complaint with the Department of Fair Employment and housing until
 - DFEH files a civil action for the alleged violation, or
 - One year passes after DFEH closes its investigation without filing a civil action

Takeaways

- Preserve your records
- Remember each employee's three-year statute of limitations for filing DFEH complaints

29




CALIFORNIA FAMILY RIGHTS ACT LEAVE

(AB 1033; Government Code section 12945.2)

- Leave to care for "parent-in-law"
 - Legislature expands CFRA to include leave to care for a child, parent, grandparent, grandchild, sibling, spouse, domestic partner, or designated person with a serious health condition
 - Parent now includes "Parent-in-law" of a spouse or domestic partner.
- Mediation program for employers with 5 to 19 employees when
 - employee requests an immediate right to sue alleging a violation of CFRA
 - employer or employee requests mediation
- Employee must contact the DFEH dispute resolution division prior to filing a civil action whether or not they want mediation
 - division contacts all respondents named in the complaint and invites mediation
 - parties have 30 days to decide
 - mediation shall occur within 60 days
 - statute of limitations tolls until the mediation is complete or the mediation deemed unsuccessful.

30



CALIFORNIA FAMILY RIGHTS ACT LEAVE

(AB 1033; Government Code section 12945.2)

Takeaways

- The DFEH takes no responsibility for ensuring mediation occurs as "mediation is deemed complete" if the "department fails to initiate the mediation within 60 days."
- Consider what is best:
 - Trying to settle
 - Insurance--EPLI


31



RISE IN DISABILITY DISCRIMINATION CASES

- Rise in disability discrimination
 - National trend is up: 1997 = 22.4% | 2020 = 36.1%
 - California: highest number of discrimination claims are in category of "disability" (2020)
- New disability discrimination theory: Long COVID
 - ADA: physical or mental impairment that "substantially" limits major life activities
 - California: a physical or mental impairment that makes performing major life activity difficult
 - applicants and employees receive reasonable accommodation
 - preserve your records

32




CHANGE IN SETTLEMENT AGREEMENTS

(SB 331; Code of Civil Procedure § 1001)

- Begin with a Takeaway
 - stop using your lawyer's old forms
 - if you use a form, ask your lawyer to review it
- Additional limits on non-disclosure provisions in settlement agreements
 - 2019 California prohibited settlement agreements that prevented disclosure of factual information related to sexual assault, sexual or other sex-based workplace harassment or discrimination
 - 2022, California expands prohibitions to include agreements that restrict disclosure of factual information related claims of workplace harassment, discrimination and retaliation based on any protected class

33




LIMITS ON RELEASE LANGUAGE

(SB 331; Government Code § 12964.5)

- Employer cannot require a current employee, who receives a bonus, raise or continued employment, to accept a release of claims, nondisparagement agreement or other provision that denies employee right to disclose information about unlawful acts in the workplace
- A nondisparagement clause or agreement restricting employee's ability to disclose working conditions must include this restriction: "Nothing in this agreement prevents you from discussing or disclosing information about unlawful acts in the workplace, such as harassment or discrimination or any other conduct that you have reason to believe is unlawful."

34



LIMITS ON RELEASE LANGUAGE

(SB 331; Government Code § 12964.5)

- Employer offering a separation agreement must state employee has a right to consult an attorney
 - must provide "reasonable time period" to consider the agreement
 - not less than five business days
 - employee may waive
- Does not apply to agreements negotiated to resolve judicial or administrative claims or through employer's alternative dispute resolution


35



RE

LEGISLATIVE UPDATE: WAGE & HOUR

36



**CHANGES TO MINIMUM WAGE:
STATE & LOCAL**

California:

- \$15/hour for employers of 26+ employees
- \$14/hour for under 26 employees

37

BAY AREA MINIMUM WAGE INCREASES

• Belmont (\$16.20)	employers with 26 to 99 employees)
• Berkeley (\$16.32)	• Oakland (\$15.06 an hour)
• Burlingame (\$15.60)	• Palo Alto (\$16.45)
• Cupertino (\$16.40)	• Petaluma (\$15.85)
• Daly City (\$15.53)	• Redwood City (\$16.20)
• El Cerrito (\$16.37)	• Richmond (\$15.54)
• Emeryville (\$17.13)	• San Carlos (\$15.77)
• Fremont (\$15.25 for employers with 26 or more employees)	• San Francisco (\$16.32)
• Half Moon Bay (\$15.56)	• San Jose (\$15.45)
• Hayward (\$15.56)	• San Mateo (\$16.20)
• Los Altos (\$16.40)	• Santa Clara (\$16.40)
• Menlo Park (\$15.75)	• Santa Rosa (\$15.85)
• Milpitas (\$15.65)	• Sonoma (\$16 for employers with 26 or more employees)
• Mountain View (\$17.10)	• South San Francisco (\$15.80)
• Novato (\$15.77 for employers with 100 or more employees, \$15.53 for	• Sunnyvale (\$17.10)




38



WEST HOLLYWOOD ORDINANCE 2022

- Minimum Wage:
 - Employers of 50+
 - 1/1/22: \$15.50
 - 7/1/22: \$16.50
 - Employers under 50
 - 1/1/22: \$15.00
 - 7/1/22: \$16.00
 - 1/1/23: \$17.00
 - Hotel employees
 - 1/1/22: \$17.64
 - 7/1/22: \$18.31 (COLA)
 - 1/1/23: no change
- Employers must also provide FT employees with 96 hours of PTO (PT employees get proportional amount) after six months. PLUS another 80 hours of unpaid time to care for themselves or another immediate family member.
- Additionally, WeHo Ordinance strictly controls how service charges and surcharges are handled.

39



WITH STATE MINIMUM WAGE INCREASING

- So, too, does the salary test for exempt employees in California = \$62,400 (\$58,240 for ≤ 26 employees)
- But remember that salary is only half the battle to make an employee exempt – an exempt employee must spend half the time performing exempt functions
- Commonly misclassified employees: office managers, account reps, IT, loan officers, restaurant managers, data processors, marketing coordinators, payroll coordinators...
- **The exposure can be six figures on a single plaintiff claim**

40



ADDITIONAL NEW CALIFORNIA LAWS

41



OTHER 2022 LEGISLATIVE ADDITIONS

- **AB 1033** CFRA expands definition of "parent" to include "parent-in-law"
- **SB 606** – Increases Cal/OSHA's enforcement authority in certain circumstances
- **AB 1003** – Makes intentional wage theft punishable as grand theft, again, in certain circumstances
- **AB 701** – Prohibits quotas in warehouse centers, and requires disclosure if applicable.
 - This is if the quota prevents an employee from (1) meal or rest break compliance, or (2) use of bathroom facilities, or (3) compliance with OSHA standards

42

ADDITIONAL NEW CALIFORNIA LAWS

- **AB 701:** Regulating Quotas in Warehouse Distribution Centers
- **SB 62:** Increased Liability for Garment Manufacturers and Brand Guarantors
- **SB 572:** Lien on Real Property (Labor Code § 98.8)
- **SB 572:** Salary Increase for

California Computer Professional Exemption

- **SB 762:** Increased Obligations for Employers in Arbitration
- **SB 657:** Electronic Documents Distribution
- **AB 286:** Food Delivery Purchase Prices and Tips





43





PAGA TRENDS

44



PAGA TRENDS—BRIEF BACKGROUND ON PAGA

Why the Private Attorneys General Act

- Pre-2004, before PAGA, Labor Code violations prosecuted by Labor Commissioner; but two problems
 - many Labor Code statutes have no civil penalty, only criminal (misdemeanor) liability, so Labor Code largely unenforced
 - where civil penalties exist in the Code, government resources too thin to pursue enforcement

How Private Attorneys General Act fixes the problems

- Each pay period in which an employer violates a provision of Labor Code with no statutory penalty, PAGA applies penalties of \$100 for initial violation and \$200 for each subsequent violation
- State deputizes private citizen-employees as attorneys general to prosecute PAGA and collect civil penalties. (*Arias v. Super. Ct.* 46 Cal.4th 969, 980 (2009).)

45

PAGA TRENDS BRIEF BACKGROUND ON PAGA

State, not the employee, is the real plaintiff in a Private Attorneys General Act lawsuit

- Under PAGA, a Plaintiff is proxy or agent of state's labor law enforcement agencies
- Plaintiff sues on behalf government; "stands in the government's shoes"
- State, not plaintiff, is always real party in interest in lawsuit

Class actions combine individual damages from multiple individual plaintiffs against a common defendant to create single lawsuit where separate lawsuits are unfeasible

- Aggregate damages for harm done to class of employee plaintiffs
- Plaintiff is an adequate representative when plaintiff's claims are typical of class members
- Theoretically, class of employee-plaintiffs receive the "damages" employer pays

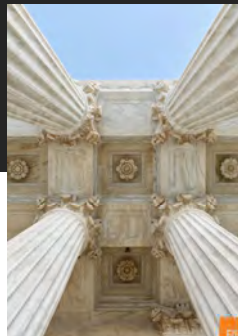


46

PAGA TRENDS BRIEF BACKGROUND ON PAGA

Private Attorneys General Act is "representative action" not a "class action"

- PAGA actions are not class actions
- PAGA actions collect penalties against an employer that violates the Labor Code
- Count number of pay periods each violation has occurred
- Plaintiff ("aggrieved employee") need not experience all violations alleged against defendant employer
- Theoretically, state receives 75% of penalties deputed employee recovers



47

PAGA TRENDS—PAGA MANAGEABILITY

A trial court must be able to manage a PAGA claim

In *Wesson v. Staples the Office Superstore, LLC*

- 346 locations/GMS misclassified
- Staples defended asserting executive exemption
- Trial court ordered plaintiff to prepare a plan of how court should manage trial
- Wesson's lawyers argued court had no authority to ensure manageability claim

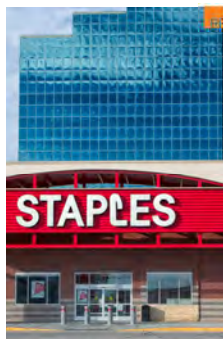
Wesson's lawyers responded

- Would be improper to dictate how Staples should defend itself
- Court doesn't have authority to order plaintiff to create plan
- Wesson will simply present evidence common to all GMs

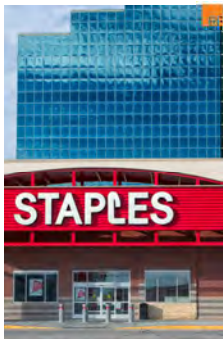
Trial court found Wesson's PAGA claim "unmanageable";

Court of Appeal upheld trial court

- Lawyers were dismissive: "common proof" to establish his claim
- Would have taken eight years to try case



48



PAGA TRENDS—PAGA MANAGEABILITY

Takeaways

- Attorneys must be creative
- Employers must audit exemptions
- Businesses must preserve paperwork
- Lawyers must curb rebellious streak when in court

49



PAGA ARBITRATION WAIVERS: IS THERE HOPE ON THE HORIZON? *VIKING RIVER CRUISES V. MORIANA*

- SCOTUS to decide whether arbitration agreements that include waivers of representative actions under PAGA can be enforced
- Previously, California Supreme Court ruled such waivers not enforceable based on a legal fiction
- SCOTUS decision will have dramatic impact on the fact of class and PAGA claims in California
- Important strategy considerations
 - Motions to stay for existing PAGA actions
 - In the meantime, ensure all employees sign arbitration agreements!

50



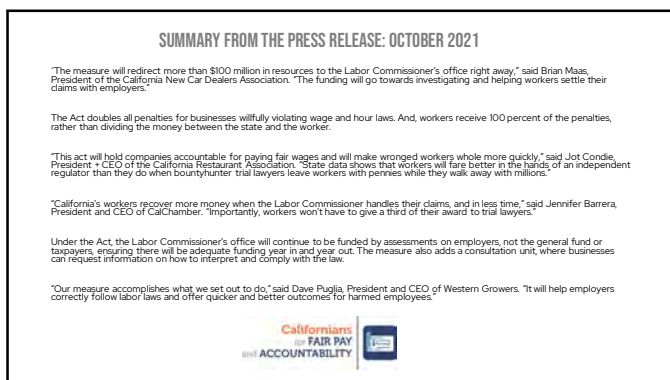
AB51: ARBITRATION PING PONG GAME CONTINUES WITH SCOTUS LIKELY TO DELIVER MATCH POINT

- CA Assembly Bill 51 (AB51) (October 2019) made it unlawful for employers to require applicants and employees to sign arbitration agreements as condition of employment
 - Civil and criminal penalties and violations of FEHA
 - Supposed to take effect January 1, 2020
- CA federal court granted TRO to halt the law from being enforced, effectively preventing enforcement
 - Rationale = Preemption under FAA; SCOTUS precedent *Epic Systems*
- In September 2021, Ninth Circuit partially upholds AB51 and lifts injunction = bad news for arbitration agreements!
- In October 2021, US Chamber of Commerce files petition for rehearing *en banc* to Ninth Circuit
- Given Circuit splits, case likely to go to SCOTUS

51



52



53



54



55

THE GREAT RESIGNATION OF 2021

- We had a worldwide pandemic in 2020 - 2021
- People lost jobs
- People lost loved ones
- People got sick
- People saw racial injustice
- People moved
- People had time off
- People sold and bought homes
- People tried new things
- People went outside their comfort zones
- People spent time with their kids and family
- People opened their own businesses
- PEOPLE RE-EXAMINED THEIR LIVES**

56


WHAT IS THE GREAT RESIGNATION REALLY ABOUT?

People realized life is short, and when that world reopened, they weren't sure they wanted it to go back to the way they were living before - even if they had never left their jobs. The pandemic got everyone thinking more carefully about how they spend their time, how they are treated, if they feel valued, and if they feel respected.

57

WHAT DOES THIS MEAN FOR EMPLOYERS IN 2022?

- Be Better
- Employees will want more from you, so think outside the box to get and keep them
- Remember that making employees feel valued, heard, safe and respected is often more important than money



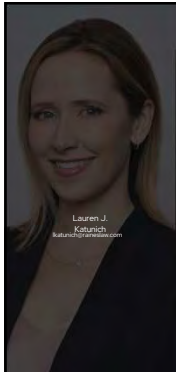
58






PREDICTIONS FOR 2022


59



Lauren J. Katunich
katunich@raineslaw.com



Beth A. Schroeder
bschroeder@raineslaw.com

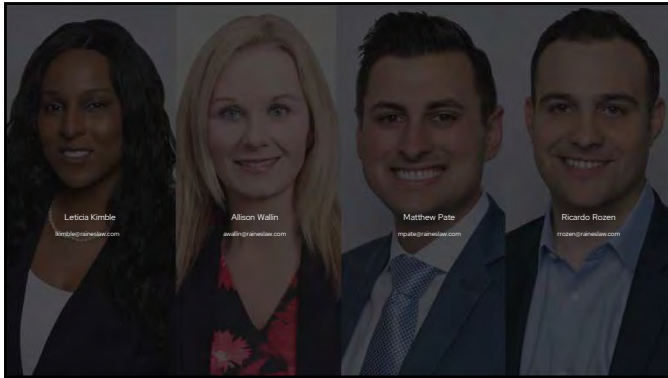


Philip R. Matin
pmat@raineslaw.com

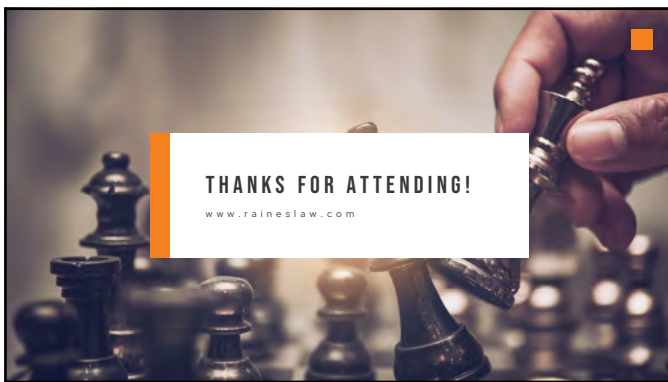
OUR TEAM

Los Angeles | Orange County | New York

60



61



62

LAUREN KATUNICH

PARTNER

✉ lkatunich@raineslaw.com

☎ 310-730-4387

📠 310-860-2624

🌐 [LinkedIn Profile](#)

📄 [Download vCard](#)



Lauren J. Katunich is a Partner and Chair of the Labor & Employment Law Department at Raines Feldman.

Lauren represents businesses and individuals in all types of labor and employment matters, including wage and hour class and PAGA actions, trade secret misappropriation, wrongful termination, employment discrimination and harassment, including sexual harassment, FEHA and whistleblower retaliation, as well as wage and hour claims and advice. She regularly counsels human resources professionals and business owners on navigating the complexities of California's wage and hour laws and applicable leaves of absence from the workplace. Lauren also conducts employee training classes and webinars, including biennial mandatory sexual harassment trainings, drafts employee handbooks and other personnel documents, and audits wage and hour compliance. Lauren also routinely prepares and negotiates employment and commission agreements for highly compensated executive and management-level employees, and works with businesses to anticipate potential issues in the drafting stage, thereby preventing costly disagreements down the road.

Lauren is a seasoned litigator with extensive litigation and dispute resolution experience. She has tried more than two dozen cases to their successful conclusion in front of juries, judges, arbitrators, and various state and federal administrative agencies, including the Equal Employment Opportunity Commission (EEOC), California Department of Fair Employment and Housing (DFEH), and the California Labor Commissioner. Lauren is equally adept at resolving litigation before it ever reaches a jury or judge, including through early advantageous settlements and her successful track record of getting claims dismissed by way of dispositive motion and at the class certification stage. Outside of litigation, Lauren is a regular public speaker and frequently addresses industry stakeholders on a wide range of employment law issues, and is a recurring guest lecturer at Loyola Law School on topics of trade secret litigation and successful trial advocacy strategies.

Areas of Practice

LABOR & EMPLOYMENT

Education

- J.D., Loyola University School of Law (cum laude)
- B.A., Brigham Young University

Admissions

- State Bar of California
- United States District Court for the Central District of California
- United States District Court for the Eastern District of California
- United States District Court for the Northern District of California
- United States District Court for the Southern District of California
- United States Court of Appeals for the Ninth Circuit

SIGNIFICANT ENGAGEMENTS & TRANSACTIONS

- Chaired and successfully obtained a complete defense verdict in a pregnancy discrimination and wrongful termination arbitration brought against an established insurance agency.
- Chaired and successfully obtained a complete defense verdict in a pregnancy and wrongful termination jury trial brought against a real estate owner and developer where the jury reached its decision in less than 30 minutes.
- Chaired and successfully obtained a complete defense verdict in an arbitration action brought against a prominent plastic surgeon sued for numerous claims, including pregnancy discrimination, disability discrimination, failure to accommodate, wrongful termination, intentional infliction of emotional distress and defamation.
- Chaired and successfully obtained a complete defense verdict in an arbitration brought against a restaurant client sued for misappropriation of server tips and missed meal and rest breaks.

- › Chaired and successfully obtained a complete defense verdict in an arbitration brought against a well-known restaurant chain sued for various wage and hour claims. Matter was initiated by a delivery driver and filed as a representative action under California Private Attorney General Act, which also included an individual claim for wrongful termination. Defeated the representative claims and had the wrongful termination claims dismissed, and the action proceeded to arbitration as a single-plaintiff wage and hour action. The arbitrator ordered claimant to pay respondent \$25,000 in fees and costs as part of the final arbitration award.
- › Chaired and successfully obtained a complete defense verdict in an arbitration brought against high-profile travel agency accused by the executive vice president of age discrimination and wrongful termination brought.
- › Chaired and successfully obtained a complete defense verdict in an arbitration brought against a popular hotel flag by its former general manager for wage and hour misclassification.
- › Second chaired and obtained complete defense verdict in six-week long jury trial brought against the president and general manager of a concert video production company with claims of misappropriation of trade secrets and breach of fiduciary duty. Plaintiffs sought over \$13 million at trial with request for punitive damages.
- › Successfully defeated class certification in a claim for missed meal and rest breaks and numerous wage and hour violations against a retail establishment with 13 California locations.
- › Gained a \$1.3 million arbitration award for business development manager on a claim for unpaid commissions.
- › Achieved a victorious summary judgment win for a Southern California parts manufacturer in a national origin discrimination and wrongful termination case resulting in award of costs for the employer.
- › Negotiated numerous speedy and advantageous class action settlements for employers across various industries in complex, multi-location wage and hour lawsuits in which hourly workers claimed failure to pay wages and overtime.
- › Brought appeal to the California Court of Appeal, and later to the California Supreme Court, achieving complete dismissal for law firm and attorney in an anti-SLAPP action. *Vafi v. McCloskey* (2011) 193 Cal. App. 4th 874.

PROFESSIONAL RECOGNITIONS



- › Leaders in Law 2021 Nominee, Los Angeles Business Journal (2021)
- › Lauren's experience and skill has led to her selection by Super Lawyers Magazine, a reputable industry rating service of lawyers who have attained a high-degree of peer recognition and professional achievement, as a Southern California Rising Star in 2007, 2008, 2010, 2011, 2013, 2014, 2015, 2016, 2017, and 2018. Lauren was named by the same publication as one of the Up-and-Coming 50 Women (Southern California) in 2017, 2018, and 2019, and as one of the Up-and-Coming 100 Attorneys (Southern California) in 2018 and 2019. Lauren was recently rated a Top Rated Super Lawyer in 2019 and 2020.

PROFESSIONAL AFFILIATION



- › Order of the Coif, Cum Laude – Loyola Law School
- › Recipient of Michael W. Harahan Award for Outstanding Adult Volunteer to honor efforts as a coach for Special Olympics, Tri- Valley
- › Ahmanson Foundation Scholarship for Academic Excellence
- › Law Review: Loyola of Los Angeles Entertainment Law Review, Chief Note and Comment Editor
- › Pi Sigma Alpha Honor Society – Brigham Young University
- › "Time to Quit Paying the Payola Piper: Why Music Industry Abuse Demands a Complete System Overhaul," 22 Loy. L.A. Ent. L. Rev. 643 (2002)

INSIGHTS



- › [Labor & Employment Law Update: What's New For 2022?](#)
- › [The Los Angeles Business Journal Recognized Three Raines Feldman Attorneys as Leaders in Law](#)
- › [Hindsight 2020: Surveying the Legal Landscape for Employers in 2021](#)

BETH SCHROEDER

PARTNER

✉ bschroeder@raineslaw.com

☎ 310-730-4397

📠 310-860-2626

🌐 [LinkedIn Profile](#)

📄 [Download vCard](#)



Beth Schroeder is a preeminent Labor & Employment counsel. She has over three decades of experience in representing employers in all aspects of employment and labor law, including the defense of employment-related lawsuits involving wrongful termination, harassment, discrimination, wage and hour issues and related claims both individual and class action.

Beth works with business owners, general counsel and human resource professionals to provide extensive day-to-day counseling and advice, risk management, compliance and strategic planning in the prevention of employment-related claims. She also conducts non-harassment and other employee training classes, drafts employee handbooks and other personnel documentation, prepares employment contracts, and conducts extensive audits for wage and hour compliance.

Beth is a regular speaker, host and moderator at conventions, conferences and seminars across the country and internationally on topics of wage and hour, sexual harassment, risk management, personnel policies and other employment law matters. Beth also is an advisory member and works closely with several trade associations, and she sits on the Board of the LA Chapter of the California Restaurant Association. Her articles on employment law regularly appear in several local and national publications.

Notably, Beth was named Century City Bar Association's Labor and Employment Lawyer of the Year for 2017.

PROFESSIONAL AFFILIATIONS



- Board Member, Santa Monica Chamber of Commerce
- Named Century City Bar Association's Labor & Employment Lawyer of the Year, 2017
- Named among Best Lawyers in America®, 2016–2022
- Selected as a Southern California Super Lawyer, 2010–2013, 2019–2022

PUBLICATIONS, RECOGNITIONS & SPEAKING ENGAGEMENTS



Beth speaks regularly to the following associations on topics of wage and hour, sexual harassment, employment law updates, and other employment law matters:

- Professionals in Human Resources Association (PIHRA)
- Professional Liability Underwriters Society (PLUS)
- California Restaurant Association (CRA)
- Association of Legal Administrators
- California Delivery Association
- California Fashion Association

Beth has also been published regularly on employment law topics and quoted frequently as an expert in such publications as The Los Angeles Times, The Los Angeles Daily Journal, The Los Angeles Business Journal, and Law360.

Areas of Practice

LABOR & EMPLOYMENT



Education

- J.D., University of California, Los Angeles School of Law
- B.A., University of Wisconsin

Admissions

- State Bar of California
- United States District Court for the Northern District of California
- United States District Court for the Central District of California

- › [Labor & Employment Law Update: What's New For 2022?](#)
 - › [Raines Feldman Attorneys Recognized in 2022 Edition of Best Lawyers in America](#)
 - › [ADA Webinar: How to Protect Your Business from a Lawsuit](#)
 - › [Hindsight 2020: Surveying the Legal Landscape for Employers in 2021](#)
 - › [Raines Feldman 2021 Employee Handbook Update Program](#)
 - › [Weathering the Post COVID Litigation Storm](#)
 - › [Raines Feldman LLP is proud to announce that partners Miles Feldman, Andrew Raines, and Beth Schroeder have been recognized in the 2021 edition of The Best Lawyers in America](#)
 - › [Business Brief: California Quarterly Employment Law Update, 2020 Q2](#)
 - › [Workplace Arbitration](#)
-

PHILLIP MALTIN**PARTNER**✉ pmaltin@raineslaw.com

☎ 310-730-4396

📠 310-691-1367

🌐 [LinkedIn Profile](#)📄 [Download vCard](#)

Phillip R. Maltin is a veteran employment and business litigator and trial lawyer. He is Chair of the Commercial & Employment Risk Control Department, and a member of both the Labor & Employment and Business Litigation practice groups at Raines Feldman. Phil represents clients in state and federal trial and appellate courts, and in arbitration and mediation. He has considerable experience in general business and employment-related lawsuits against one, or several, opposing parties, and an admirable record defending businesses against wage and hour class-actions and claims under California's notorious Private Attorneys General Act (PAGA). Phil represents corporations, officers and directors in shareholder derivative lawsuits; he has the distinction of recovering millions of dollars for businesses victimized by their employees' fraud and embezzlement.

Phil defends employers in lawsuits involving discrimination, harassment, retaliation, wrongful termination and misappropriation of trade secrets. He also has managed and conducted numerous internal investigations for companies in a variety of work-place issues, from claims of discrimination and harassment to inquiries into violence and embezzlement. He regularly acts as outside general counsel and advises businesses of all sizes, providing day-to-day human resources counseling and strategy. His clients include national and international corporations located in the United States, Asia and Europe.

Phil is a fully credentialed instructor in the prestigious fellowship program of the Trial Advocacy Project ("TAP"). He is a former full-time prosecutor in the Los Angeles City Attorney's Office and continues to prosecute discrete criminal cases through trial as part of his commitment to the TAP program.

Phil is a Southern California Super Lawyer (every year from 2010 to 2018), an elite distinction given to no more than five percent of the Southern California Bar.

Areas of Practice**LABOR & EMPLOYMENT****CORPORATE GOVERNANCE & MANAGEMENT
LIABILITY LITIGATION****Education**

- J.D., DePaul University College of Law
- B.A., California State University, Chico

Admissions

- State Bar of California

PROFESSIONAL AFFILIATION

- Instructor, Fellowship Program of the Trial Advocacy Project (TAP)
- Pro Bono Representation, and Former Member of Board of Directors of MEND, One of California's Largest Foodbanks
- Former Member of Advisory Board, USC Guild School of Law, Institute for Corporate Counsel
- Beverly Hills Bar Association; Member, Board of Governors (2004–2006); Chairman, Executive Committee, Labor & Employment Law Committee (2003–2004); Member, Executive Committee, Labor & Employment Law Committee (2003–present)
- Los Angeles County Bar Association; Member, Labor & Employment Section Saturday Seminar Committee; Executive Committee, Labor & Employment Law Section (2001)
- Member of Board of Directors of Burbank Chamber of Commerce

PROFESSIONAL RECOGNITIONS

- › Defeated the Employment Development Department in two administrative trials and on appeal following legally defective reclassification of independent contractors as employees.
- › Obtained dismissal of a wage and hour class action—without paying anything to the class of plaintiffs—after the court had certified a class, while representing a venerable Los Angeles restaurant chain.
- › Forced the opposing business into bankruptcy on the eve of trial, and then at trial, won court-imposed fines against the opposing business owner and his lawyers, while representing one of the largest manufacturers in Asia in an international business dispute.
- › Won case dismissal, a public quasi-apology for the client, and payment of attorney's fees, while representing a startup publishing company in a misappropriation of trade secrets case against the startup company's largest competitor.
- › Pressured the plaintiff in a sexual harassment and gender discrimination case to abandon his lawsuit simply by cross-examining him at deposition.
- › Obtained summary judgment in multiple cases while representing one of the country's largest HMOs in member disputes and ERISA actions.
- › Continues to win convictions in crimes involving domestic violence, battery involving serious bodily injury and driving while impaired, as a bono public prosecutor for the City of Los Angeles.
- › 2019 Distinguished Alumnus, California State University, Chico.
- › Received the only "Outstanding Alumnus" award in the history of the Trial Advocacy Project.
- › Teaches deposition skills and trial advocacy in the Trial Advocacy Project.

PUBLICATIONS, RECOGNITIONS AND SPEAKING ENGAGEMENTS +

- › Phil's articles on trial tactics and evidence have been regularly featured in Los Angeles Lawyer magazine and other publications. From 2002 through 2003, Phil wrote a monthly column on employment law and trial techniques for the Los Angeles Daily Journal. He was also an "expert speaker" for Vistage International speaking across North America on employment law.

Phil's publications include:

- › P. Maltin, "Lawyers Learn what Body Language Is—and what it Is Not," Daily Journal, February 28, 2018
- › P. Maltin, "##MeToo and Liability under the Talent Agencies Act," Daily Journal, January 18, 2018
- › A. Ciccattelli, Interview of Phillip Maltin, "What Companies Need to Do to Address Sexual Harassment Post-Weinstein," Corporate Counsel, November 30, 2017.
- › P. Maltin, "Hollywood Needs to Start Acting to Rein-In Sexual Harassment," Daily Journal, November 7, 2017.
- › D. Wilkie, Interview of Phillip Maltin, "How to Identify Liars," SHRM Magazine, April 28, 2017.
- › P. Maltin, "Whither Uber?" IC Business Insights for the Legal Professional, November 2015.
- › P. Maltin, "The Art of Communicating Means Learning to Question Effectively: Five Techniques that Help Gain Valuable Information from an Interview," Bottomline, 30(4), 14-17, October 2015.
- › C. Ottens & M. Pressberg, Interview of Phillip Maltin, "Fit to be Recognized: 'Phil the Lawyer from P90X,'" Los Angeles Business Journal, September 7, 2015.
- › M. Schwartz, P. Maltin, "Strength of Character" (Cover Article), Los Angeles Lawyer, June 2010.
- › P. Maltin, "Human Resources Techniques Of Great Leaders," Bottomline, October 2008.
- › P. Maltin, "Fundamental Skills For Catching Liars In The Workplace," Bottomline, August 2007.
- › P. Maltin, "Catch Liars In The Workplace," Risk Factor, 2(12), March 2007.
- › P. Maltin, "Rape Shield Law Protection for Sexual Harassment Victims," California Labor and Employment Law Quarterly, June 2006.
- › P. Maltin, "Rule No. 1 in Identifying Liars is Don't Get Cocky," Los Angeles Daily Journal, March 6, 2006.
- › P. Maltin, "Shield Law Offers Protection to Sexual Harassment Victims," Los Angeles Daily Journal, January 19, 2006.
- › P. Maltin, co-author "Second Acts: The expansive reach of Evidence Code Section

Mr. Maltin regularly speaks on labor and employment law, evidence and trial tactics. His popular seminars generate interest across North America and include training on how to:

- Identify liars in the workplace, on the witness stand and in personal life;
- Conduct investigations, particularly of fraud;
- Recognize and avoid sexual harassment claims;
- Achieve success as a supervisor; and Avoid lawsuits, among others.

Some of Phil's presentations include:

- Speaker, "How to Identify Liars during Mediation and Arbitration," USC Law School, Los Angeles, California, February 23, 2021.
- Panelist, "What Would You Do If . . . The Most Vexing Back to the Office Dilemmas and How to Resolve Them: Masks, Social Distancing, Whistleblowing," American Conference Institute, EPLI Conference, January 27, 2021.
- Speaker, "Returning Employees to Work and Hiring New Ones: Avoiding Discrimination Claims using Traditional Selection and Automated Screening," BLR Webinar, August 10, 2020.
- Speaker, "What New Types of Claim, Arising from COVID-19, May Come from the United States?" The Insurance Institute of London, England, June 2, 2020.
- Speaker, "How to Spot Liars during Claims Examination and Litigation," The Insurance Institute of London, England, December 5, 2019.
- Speaker, "Toxic Personalities at Work: Making Legally Sound Decisions," HR Comply, Los Angeles, California (October 8, 2019).
- Speaker, "Attracting Top-Tier Talent," HR Comply, Los Angeles, California (October 8, 2019).
- Seminar, "How to Identify Liars in Legal Settings," USC Law School, January 31, 2019.
- Keynote Speaker, "Law for Leaders: A Survey of the Real and the Apocryphal—Rules for the Workplace all Leaders Must Know," HFTP, Los Angeles, California January 23, 2019.
- Keynote Address, "#MeToo: Why it's the Third Most Important Legal Issue in Employment Practices Liability Insurance," Insurance Institute of London, October 16, 2018.
- Panelist, "A Peek Behind the Curtain: Workplace Traps, Common Mistakes and Countermeasures to Protect your Business against Employee Lawsuits," Los Angeles, California, August 8, 2017.
- Keynote Address, "I Can Read You: Communication, Questioning & the Science of Unmasking Untruths," San Francisco HR Star Conference, July 12, 2017.
- Interviewed, "The Science of Uncovering Dishonesty at Work," Podcast: <https://talentculture.com/worktrends-recap-science-of-uncovering-dishonesty-at-work/>, May 4, 2017.
- Live Interview, "How to Identify Liars," SHRM, April 28, 2017.
- Speaker, "I Can READ You: Communication, Questioning and the Science of Unmasking Untruths," SHRM Staffing Conference, Chicago, Illinois, April 26, 2017.
- Speaker, "I Can Read You: Communications, Questioning & The Science of Unmasking Untruths," Talent Management Conference, Society for Human Resource Management, Chicago, Illinois, April 26, 2017.
- Speaker, "Information Technology Ethics and Law," HFTP Digital Day, March 22, 2017
- Speaker, "Liars! Communication, Questioning and the Science of Unmasking Liars," Bay Area Human Resource Executive Council, Sunnyvale, California, March 15, 2017.
- Speaker, "Fiduciary Exception to the Attorney-Client Privilege in ERISA Litigation," National American Conference Institute ERISA Litigation. Conference, San Francisco, California, June 28, 2016.
- Speaker, "The Art of Communicating Effectively: Unearthing Information, Brushing Aside Barriers and Exposing Liars," Annual Convention and Tradeshow, Hospitality Financial and Technology Professionals, Seattle, Washington, October 22, 2015.
- Speaker, "Hire the Best, Pass on the Rest," Workshop, Los Angeles, California, September 24, 2015.
- Speaker, "I Can READ You: How to 'Win' a Negotiation By Getting At The Truth," Lathrop & Gage Seminar, Los Angeles, February 25, 2015.
- Special Guest, Champions of Justice Radio Interview with Tom Girardi on KRLA AM 870, March 16–17, 2013, 2014.
- General Session Address, "Uncovering Fraud Through Questioning," Southern California Fraud Investigators Conference, Palm Springs, California, November 20, 2014.
- Speaker, "Information Technology Ethics and Law," HITEC Executive Session, June 23, 2014.

- › Panelist, "Proving and Defending Emotional Distress Damages in Litigation," Beverly Hills Bar Association, June 19, 2013.
- › Seminar, Scottsdale, Forensic Expert Witness Association Annual Conference, Arizona, April 27, 2013.
- › Private Workshop, ACE Group Insurance Company, Wilmington, Delaware; Alpharetta, Georgia; Jersey City, New Jersey, Multiple Dates in 2013.
- › Annual Workshop Leader, Deposition Skills, Los Angeles County Bar Association and Trial Advocacy Project, 2012-Present.

INSIGHTS



- › Phillip Maltin and Patrick Healy from NBC News on Vaccine Verification
 - › Business Brief: California Quarterly Employment Law Update, 2020 Q3
 - › A Webinar Exposing Lies in the Workplace in the COVID-19 Era
 - › Business Brief: California Quarterly Employment Law Update, 2020 Q2
 - › Common Questions Prompted by New Federal Laws and COVID-19
 - › Franchisors Must Not Control Franchisees' Personnel Decisions to Avoid Liability for Franchisees' Employees' Labor Code Claims
 - › Workers Can Use Accurate Overtime Adjustments to Penalize Even Generous Employers
 - › Legislation: Work Culture Harassment
 - › Tips Trends: Paga
 - › Tips Trends: Employee Reimbursement
 - › Tips Trends: Anticipation Of Litigation
 - › Legislation: Salary Questions
 - › Case Pending: Out Of State Wages
 - › Off The Clock Pay Ruling
 - › Legislation: Statue Of Limitations
 - › Legislation: changes to anti-harassment
 - › Case Pending: Union Unpaid Wage
 - › Case Pending: Paga Unpaid Wages
 - › Case Pending: Labor Code Claims
 - › Case Pending: Free Speech
 - › Case Pending: Correctional Officers Comp
 - › Case Pending: Conversion Lawsuit
 - › Case Pending: Arbitration-Supreme Court
 - › Case Pending: Ambulance Break Pay Policy
 - › Legislation: Ca Requires Gender Diverse
 - › Legislation: Ca Settlement Agreements
 - › Legislation: California Harassment Claim
 - › Arbitration in the Workplace, What's New?
 - › Background Check Disclosure
-

LETICIA KIMBLE

COUNSEL

✉ lkimble@raineslaw.com

☎ 424-369-8719

📠 310-432-0048

🌐 [LinkedIn Profile](#)📄 [Download vCard](#)

Leticia Kimble is an experienced litigator with a practice that focuses on complex business and intellectual property litigation, business and entertainment contract disputes, and all aspects of employment and labor law, including the defense of employment-related lawsuits involving wrongful termination, harassment, discrimination, and wage and hour issues.

Leticia handles every stage of litigation, from inception to finish, including extensive motion practice, discovery, depositions, trial, and settlement. In addition, she also has transactional experience obtaining, protecting, and exploiting copyrights and trademarks, negotiating distribution agreements, and counseling start-up companies on their corporate formation, employment issues, and corporate governance.

Leticia conducts diversity and inclusion training classes for managers and employees. Leticia is also a regular speaker, host, and moderator on emerging legal issues in employment and business matters.

PROFESSIONAL AFFILIATION



- › Southern California Super Lawyer Rising Star (2017–2020)
- › Los Angeles Country Bar Association
- › Beverly Hills Bar Association
- › Century City Bar Association
- › Culver Marina Bar Association
- › American Bar Association
- › Association of Title IX Investigators

PERSONAL



- › Advisor to numerous entertainment startups and talent in Los Angeles
- › Supporter of animal rescue organizations
- › Active in various alumni groups for the University of Southern California and University of Michigan

SIGNIFICANT ENGAGEMENTS & TRANSACTIONS



- › Represented an employer in the successful appeal of a nearly \$300,000 attorney fee award to plaintiff's counsel in *Betancourt v. OS Rest. Servs., LLC*, 49 Cal. App. 5th 240 (2020), reh'g denied (May 18, 2020).
- › Chaired and successfully obtained six-figure verdict in a probate bench trial involving numerous claims, including breach of fiduciary duty and financial elder abuse
- › Second chaired and successfully obtained a multi-million-dollar verdict in a defamation action on behalf of Las Vegas casino.

Areas of Practice

TRIALS, LITIGATION & DISPUTE RESOLUTION


ENTERTAINMENT & MEDIA LITIGATION


LABOR & EMPLOYMENT


COMMERCIAL LITIGATION


REAL ESTATE LITIGATION


SECURITIES LITIGATION


Education

-
- › J.D., University of Michigan
 - › B.A., University of Southern California

Admissions

-
- › California

INSIGHTS



- [Labor & Employment Law Update: What's New For 2022?](#)
 - [Hindsight 2020: Surveying the Legal Landscape for Employers in 2021](#)
-