

2022 California Employment Law Update

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California Is Different... and Always Changing

- Minimum Wages
- Settlement & Separation Agreements
- CFRA Expansion
- Employee Record Retention
- Wage Theft
- Arbitration Fee Payments
- Contractual Arbitration Prohibition (AB 51)
- PAGA Developments



Minimum Wages

\$15.00 an hour by 2023

In 2022:

- \$15/hour, if 26 or more employees
- \$14/hour, if 25 or fewer employees

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The CFRA on January 1, 2021

The California Family Rights Act

- Employed for the preceding 12 months.
- Employed for 1,250 hours for the preceding 12 months.
- Employer directly employs 5 or more employees.

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The CFRA on January 1, 2022

- Birth of a child, adoption, or foster-care placement;
- Care for a spouse, minor or adult child, parent, **parent-in-law**, sibling, grandparent, grandchild, or domestic partner with a serious health condition; or
- Recovery from an employee's own serious health condition.

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Employee Record Retention

Pre-2022: Two Years

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Employee Record Retention

Pre-2022: Two Years

January 1, 2022: Four Years

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Employee Record Retention

Pre-2022: Two Years

January 1, 2022: Four Years

- Creation of records
- Employment action

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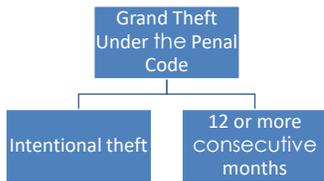
Wage Theft



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Wage Theft



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Wage Theft



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Wage Theft

Misdemeanor

- Up to a year in jail

Felony

- Up to 3 years in jail

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Payment of Arbitration Fees

All parties invoiced...

- On the same day,
- By the same means.

Invoices to be paid within 30 days.

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Payment of Arbitration Fees

In California, employers are responsible for arbitration fees and costs.

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Payment of Arbitration Fees

Invoices issued

- For initiation *and* hearing fees
- Once the requirements for initiating arbitration have been met
- As "due upon receipt"

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Payment of Arbitration Fees



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Payment of Arbitration Fees

Consequences for failure to pay...

- The employee may elect to withdraw from arbitration and recover attorney's fees.
- If the employee continues in arbitration, the arbitrator "shall" impose appropriate sanctions

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AB 51 – Arbitration Prohibition

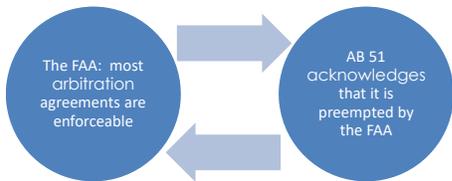
Employment contracts cannot require employees to arbitrate employment disputes

Agreements after January 1, 2020

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AB 51 vs. The Federal Arbitration Act



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AB 51 vs. The FAA

Federal Courts & AB 51

- 2019 – TRO.
- 2020 – Injunction.
- 2021 – Injunction partially lifted in 2021.
- 2022 – Related SCOTUS opinion.

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Children, let's settle this like adults.



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California's PAGA

Private Attorneys General Act of 2004.

Pursue civil penalties, but not damages.

75/25 split of the penalty recovery.

Attorney's fees.

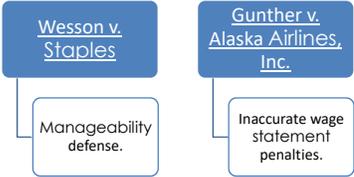
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California's PAGA



California's PAGA



California's PAGA



Fair Pay and Employer Accountability Act

To Repeal and Replace PAGA

- Enforcement authority returned to the Labor Commissioner.
- No attorney's fees.
- Employees receive 100% of the award.

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Questions?

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