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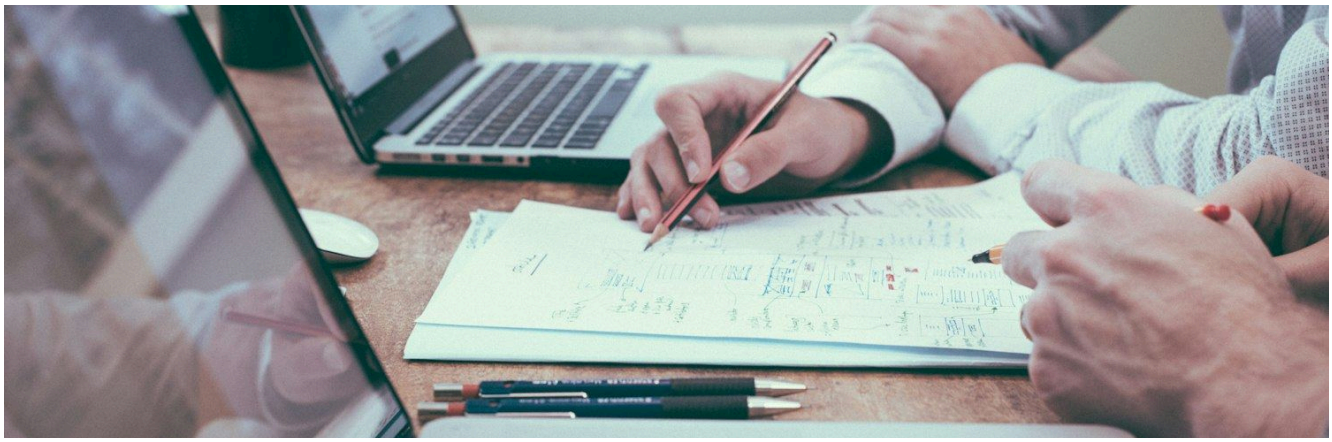
PRACTICE GUIDE · EMPLOYMENT LAW

Wage-and-Hour & PAGA

Grand Park Law Group · 2026



A. Overtime, Meal/Rest, and Wage Statement Claims

California's wage-and-hour regime is built on the Industrial Welfare Commission Wage Orders, the Labor Code, and the regulations issued by the Division of Labor Standards Enforcement. The headline rules are:

- **Daily and weekly overtime.** Time-and-a-half after 8 hours in a day or 40 in a week; double time after 12 hours in a day or 8 hours on the seventh consecutive day. Cal. Lab. Code § 510.
- **Meal periods.** A 30-minute, off-duty, uninterrupted meal period before the end of the fifth hour of work, and a second by the end of the tenth. Lab. Code § 512. *Brinker Restaurant Corp. v. Superior Court* (2012) 53 Cal.4th 1004 clarified the employer must "provide" but need not police; *Donohue v. AMN Services, LLC* (2021) 11 Cal.5th 58 held that time-rounding policies are unlawful in the meal-period context.
- **Rest periods.** Ten minutes of paid rest per four hours worked or major fraction thereof. *Augustus v. ABM Security Services, Inc.* (2016) 2 Cal.5th 257 prohibits "on-call" rest breaks.
- **Wage statements.** Nine required items per Lab. Code § 226(a), with statutory penalties for knowing and intentional violations.
- **Final pay.** Wages are due immediately at involuntary termination, within 72 hours at voluntary termination. Lab. Code §§ 201, 202. Late payment triggers waiting-time penalties up to 30 days of wages under Lab. Code § 203.

The unifying liquidated-damages structure makes even modest individual claims economically viable, and the four-year statute of limitations available through Bus. & Prof. Code § 17200 (the Unfair Competition Law) extends what would otherwise be a three-year wage limitations period.

B. Independent-Contractor Misclassification Under the ABC Test

Misclassification became dramatically easier to challenge after *Dynamex Operations W., Inc. v. Superior Court* (2018) 4 Cal.5th 903, which adopted the "ABC test" for purposes of the wage orders. Under *Dynamex*, a worker is presumed an employee unless the hirer establishes all three:

- **(A)** The worker is free from the control and direction of the hirer in connection with the performance of the work, both under the contract and in fact;
- **(B)** The worker performs work that is outside the usual course of the hiring entity's business; and
- **(C)** The worker is customarily engaged in an independently established trade, occupation, or business of the same nature as the work performed.

Id. at 957. The legislature codified and extended *Dynamex* in Assembly Bill 5 (2019), now Cal. Lab. Code § 2775, and AB 2257 added a series of occupational exemptions. Proposition 22 (2020) carved out app-based rideshare and delivery drivers from the ABC test, although its constitutionality was litigated in *Castellanos v. State of California* (2024) 16 Cal.5th 588, which upheld the measure but limited its preemptive scope.

The B-prong is the usual battlefield. Courts ask whether the worker performs services "in the usual course" of the hirer's business; outsourced design, accounting, or legal work usually passes, while drivers for a delivery business or stylists at a salon typically fail.

C. PAGA After 2024 Reform (AB 2288 / SB 92)

The Private Attorneys General Act of 2004 — Cal. Lab. Code § 2698 et seq. — deputizes aggrieved employees to sue on behalf of the state for Labor Code violations and recover civil penalties, 75% of which go to the LWDA and 25% to affected employees. PAGA has been the most contested California employment statute of the last decade.

Two recent developments reshape the landscape.

Federal arbitration after *Viking River Cruises, Inc. v. Moriana*, 596 U.S. 639 (2022). The U.S. Supreme Court held that the FAA preempts California's prior rule that a PAGA action could not be split into individual and representative components. After *Viking River*, employers may compel arbitration of the *individual* PAGA claim. The Court further opined that, once the individual claim was sent to arbitration, the employee lacked statutory standing to maintain the representative claim in court — a holding the California Supreme Court rejected on state-law grounds.

State-law standing restored in *Adolph v. Uber Technologies, Inc.* (2023) 14 Cal.5th 1104. *Adolph* held that an employee whose individual PAGA claim is compelled to arbitration retains statutory standing under the Labor Code to pursue the non-individual representative claim in court. *Id.* at 1114. Standing is satisfied by virtue of the employee's status as an "aggrieved employee," and arbitration of the individual claim does not strip that status.

The 2024 reform. Assembly Bill 2288 and Senate Bill 92, signed July 1, 2024, comprehensively overhauled PAGA. Key changes include:

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- **New standing requirement.** The plaintiff must have personally suffered each Labor Code violation alleged on a representative basis within the one-year limitations period — closing the prior practice of "stacking" violations the named plaintiff did not personally experience.
- **Manageability.** Trial courts now have express authority to limit the scope of representative claims to ensure the case can be tried effectively.
- **Penalty restructuring.** Reduced penalties for employers that take "all reasonable steps" to comply (capped at 15% of the otherwise-applicable penalty) or that cure violations after notice (capped at 30%); elevated default penalty of $200 per pay period for subsequent violations (where the employer was found within the prior five years to have committed the same violation, or where the conduct was malicious, fraudulent, or oppressive).
- **Cure provisions.** Employers may cure a wider range of violations, including wage-statement and meal-period issues, through an LWDA-supervised process.
- **Employee share increased.** From 25% to 35% of recovered penalties.

The reform tightens but does not gut PAGA. For employees with strong individual claims and clear evidence of company-wide patterns, the statute remains a uniquely powerful enforcement tool.

Practice	Employment Law
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