



Presenter

Chris Olmsted, Esq.
Ogletree Deakins shareholder
San Diego, CA

Minimum Wage

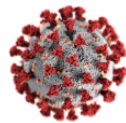
- 2023 California minimum wage: **\$15.50**
- Several local ordinances also increase
- Minimum California exempt salary: **\$64,480**

Next Steps: Update minimum wage posters; audit salary levels for exempt employees.



AB 152: California Covid-19 Supplemental Paid Sick Leave (SPSL)

- SPSL extended through **December 31, 2022**
 - **No additional paid sick leave.** Employees may use remaining 2022 balances
- State funds available for employers with 26-49 employees



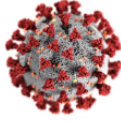
AB 152: California Covid-19 Supplemental Paid Sick Leave (SPSL)

Also:

- Employer can require **third diagnostic test** within no less than 24 hours if second diagnostic test is positive
- Second and third tests must be provided **at no cost** to employee
- May deny additional SPSL if **employee refuses to submit** to second or third test

Next Steps:

- Continue to provide SPSL benefits through the end of 2022
- Consider participation in grant program if eligible



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AB 2693: Covid-19 Notices



- Extends employer reporting requirement to **January 1, 2024**
- Instead of individual employee notices, option prominently **display a notice** alerting employees to potential Covid-19 exposure
- Notice must comply with several technical requirements
- Employer must keep log of dates of posting and provide access to Labor Commissioner

Next Steps:

- Ensure Covid-19 notices comply with all technical requirements

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AB 1949: Bereavement Leave

- Covers: Employer of **5 or more** / employed **30 days** or more
- **Up to 5 days** on death of a "Family Member"
 - "Family Member" = spouse, child, parent, sibling, grandparent, grandchild, domestic partner, parent-in-law
 - 5 days need not be consecutive
- Unpaid, except use of sick or PTO
- Time Limit: **3 months** after death
- May request proof of death
- Confidentiality required

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AB 2188: Cannabis

- Prohibits adverse action for off duty marijuana use.
- Prohibits drug test for non-psychoactive cannabis metabolites.
- Exceptions for construction trades, regulated workers, government contractors.
- Effective 1/1/24



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AB 2188: Cannabis

Next Steps:

- Update drug testing and anti-discrimination policies.
- Train managers regarding “reasonable suspicion”
- Identify vendors / clinics for valid testing.



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AB 1041: CFRA and Sick Pay For “Designated Person”

- CFRA leave to care for “designated person”
- “Designated person”= “an individual **related by blood** or whose association with the employee is the **equivalent of a family relationship**”
- Employer may limit to one designated person per 12-month period of CFRA leave



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AB 1041: CFRA and Sick Pay For “Designated Person”

Also:

- “Designated person” similarly added to California’s **Paid Sick Leave Law**

Next Steps:

- Update employee handbook (Sick Pay and CFRA)
- Train appropriate personnel regarding expanded definitions



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SB 1044: Emergency Conditions

Prohibits retaliation against employees refusing to report / leaving unsafe workplace due to “emergency conditions.”

- “**Emergency condition**” (1) natural disaster or a criminal act, or (2) an order to evacuate a workplace, a worker’s home, or child’s school.
 - But **not** a health pandemic.



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SB 1044: Emergency Conditions

- Right to use a cell phone
- Limited industry exceptions (like residential care facilities).

Next Steps:

Update policies.



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SB 523: Contraceptive Equity Act of 2022



- Fair Employment and Housing Act (FEHA) amended to include **"reproductive health decisionmaking"** as protected category.
- **"Reproductive health decisionmaking"** is "a decision to use or access a particular drug, device, product, or medical service for reproductive health"
- Prohibits employers from requiring the disclosure of "reproductive health decisionmaking" as a condition of employment, continued employment, or employment benefits

Next Steps:

- Update policies
- Train managers and supervisors regarding prohibited inquiries

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AB 257: Fast Food "FAST Recovery" Act

- **"Fast Food Council"** within DIR, appointed by Gov.
 - Industry and labor representatives, plus DIR
- **"Fast Food Chain"** = 100+ restaurants nationwide
 - plus other criteria
- Council will set wages, hours, working conditions
 - Can go up to \$22/hr. in 2023, hikes by CPI after
- Presumption of Retaliation (90 days after complaint)
- Councils Sunset in 2029 but wage hikes live on



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SB 1477: Wage Garnishment

Reduces wage garnishment limits on 9/1/23 to:

- 20% of disposable earnings (from 25%); or
- 40% of the amount disposable earnings exceed 48 times the state minimum wage. (from 50% or 40 times MW)



Next Steps:

Update wage garnishment amounts 9/1/23.

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SB 951: SDI & PFL Increase

- Jan. 1, 2025 increase to SDI and PFL benefits for lower wage workers
- Employers who supplement to 100% of lost wage will save after the increase
- Risk of higher tax rate if reserve fund falls – levels okay for now



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SB 1162 – Pay Data Reporting

- New data:**
- Mean and average pay for each combination of race, ethnicity and gender in each defined job category.
- New Deadline:**
- 2nd Wednesday of May
- New Coverage:**
- Labor contractors (if 100 or more hired)
- Also:**
- Separate reports per "establishment" (economic unit)
 - Failure to report: \$100-\$200 penalty per employee



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SB 1162: Pay Scale Disclosure

- Employer of **15 or more**
- List pay scale with job posting (including 3d party listings)
- Give current employees pay scale on request
- New recordkeeping requirements
- Aggrieved employee complaints to Labor Comm'r
- Penalties \$100 up to \$10,000 per violation



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Arbitration

AB 51:

- CA law banning mandatory arbitration agreements is stayed by Federal 9th Circuit.

Federal Law:

- Ending Forced Arbitration of Sexual Assault and Sexual Harassment Act of 2021 prohibits mandatory arbitration of sex harassment claims.

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Miscellaneous

- **AB 1601** CA WARN Act for call centers relocating to a foreign country.
- **AB 1661** Hair, nail, electrolysis, and skin care businesses, and other related businesses must post a notice regarding slavery and human trafficking.
- **AB 1751** - COVID-19 workers' compensation presumption extended until January 1, 2024.
- **AB 1775** Live entertainment events vendors to certify employees and subcontractors have completed specified workplace safety training.

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Miscellaneous

- **AB 1788** - Hotels liable for failing to report known sexual trafficking within the hotel, and/or where an employee benefits from sexual trafficking activity within the hotel.
- **AB 1851** Prevailing wage applies to certain on-hauling of material used for paving, grading, and fill onto a public works site.
- **AB 2068** - Employers to post notices of Cal/OSHA citations in specified languages.
- **SB 1126** - Extends CalSavers to employers with one or more employee December 31, 2025.

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Scary Stories



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Meal and Rest Breaks

Naranjo v. Spectrum Security Services

(CA Supreme Court, May 2022)

- Meal and rest break premiums constitute "wages" that must be reported on wage statements and timely paid to employees at the end of their employment
- Potential derivative liability for inaccurate wage statements and waiting time penalties

Takeaways

- Audit meal and rest break practices, including payment of penalties for missed meal or rest breaks
- Ensure that employee pay stubs clearly and accurately reflect any meal or rest break penalties paid to employee



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Wage Statements

Meza v. Pacific Bell Telephone Co.

(June 17, 2022) [UNPUBLISHED]

- Labor Code section 226(a)(9)'s requirement to list "hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate" does not apply to overtime true-up payments that relate to a past pay period.
- Scary? It was depublished!




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Hours Worked

Johnson v. WinCo Foods LLC
 37 F.4th 604 (9th Cir. 2022)

- An employer is not obligated to compensate prospective employees for time and expenses to take a mandatory drug test.



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Suitable Seating

LaFace v Ralphs Grocery
 (Cal.Ct.App. Feb 2022)


- Are cashiers entitled to seating?
- Is a PAGA plaintiff entitled to a jury trial?

Ct answers both questions: No.

Meda v. AutoZone Inc
 (Cal.Ct.App. July 2022)

- Sales Associate at parts counter – could sit sometimes
- Does employer have to put a chair there?

Ct: Not if ee knew she could use one and it's available



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Martinez v. Southern California Edison
 (Los Angeles Superior Court, June 2022)

\$464 million verdict

- Plaintiffs alleged retaliation based on their complaints of sexual and race-based harassment against coworkers
- Plaintiffs alleged harassment was widespread and "swept under the rug"

Takeaways

- Take all complaints seriously and conduct prompt, thorough, and impartial investigation
- Retaliation is an actionable, stand-alone claim
- Tread lightly when taking negative action against employee who has engaged in protected activity
- Train managers and supervisors regarding retaliation policy



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Arbitration

Viking River Cruises Inc. v. Moriana



- The FAA preempts California law; PAGA claims can be forced into individual arbitration.

AB 51:

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Federal Law:

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Thank You!

Presenter
Chris Olmsted
Ogletree Deakins, San Diego Office
Christopher.Olmsted@Ogletree.com



About the Firm

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We represent a diverse range of clients, from small businesses to Fortune 50 companies.



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