

*The Orange County Bar Association  
Covid-19 Task Force Presents*

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# **CALIFORNIA REOPENS FOR BUSINESS**

What Organizations Need to Know to Reopen Their Workplace  
Safely and In Compliance with Government Orders

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Thursday, May 14, 2020



Speakers

**Thomas J. Umberg**

Senator, *California State Senate*

**Bruce J. Sarchet, Esq.**

Shareholder, *Little Mendelson*

**Yashina Burns, Esq.**

Senior Corporate Counsel, *Propel Media*

Program Chair

**Melissa A. Petrofsky, Esq.**

*The Petrofsky Law Firm*

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# Seminar Materials

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ORANGE COUNTY  
BAR ASSOCIATION

# COVID-19 And Employment Law: Compliance Challenges For Business

*May 14, 2020*

**Littler**<sup>®</sup>

Presented By:

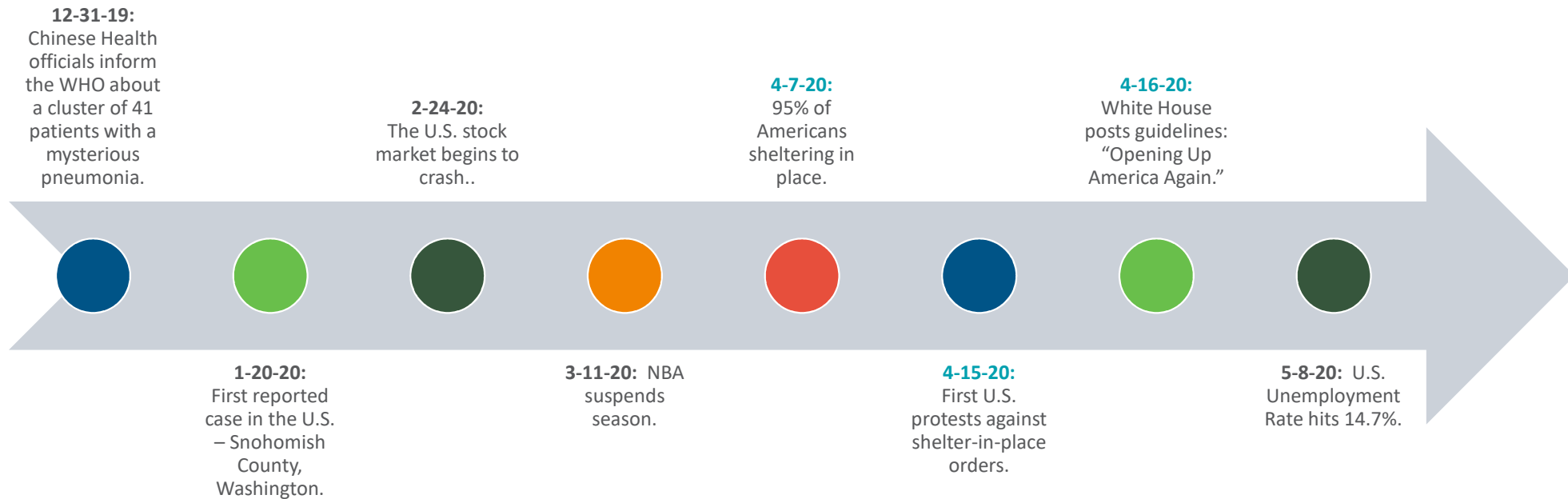


**BRUCE SARCHET**

Shareholder  
California Liaison –  
Workplace Policy Institute  
Irvine, CA



# COVID-19 TIMELINE



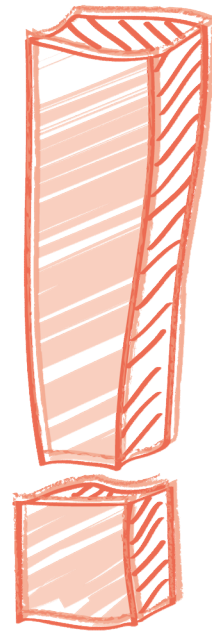
# Agenda

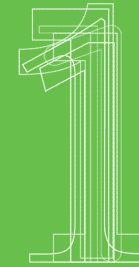
1. Re-Opening?
2. Health Screenings
3. Face Coverings and Masks
4. Working From Home
5. Absent Workers
6. Not Enough Work: Reducing Hours and Pay
7. PPP and the WARN Act



# DISCLAIMERS!

- **This is a lot of information to cover in just 30 minutes!**
- So, I won't cover everything.
- And, nobody can cover everything because nobody knows everything – the situation is changing daily.
- And, of course, this webinar does not substitute for advice of counsel!





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**RE-  
OPENING?**

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# Deciding Whether and How To Reopen

These questions should be addressed by a multi-disciplinary team.

Sales and  
Marketing

Facilities

Real Estate

General  
Counsel

Public  
Relations

In-House  
Employment  
Counsel

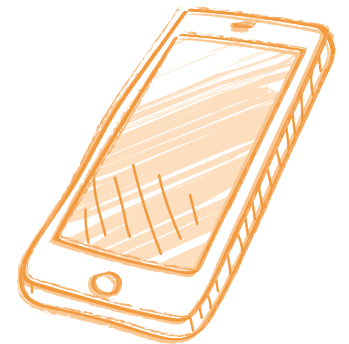
Human  
Resources

Government  
Relations



# Who Do You Call First?

- Check for local ordinances.
- Follow your handbook or cba, if applicable.
- Recall “low risk” first?
- Recall by seniority?
- Recall by “merit?”
- Consider using objective measurements of merit, such as written evaluations.
- Consider an A/C privileged disparate impact analysis.



# “I Don’t Feel Safe!”



- Some employees may resist a return to work – *“I don’t feel comfortable returning to work.”*
- **Suggested initial response:** *“We are operating a safe workplace. We are operating in accordance with state and local safety and health guidelines. There currently is no recognized health or safety hazard in our workplace.”*

## If you offer work, and the employee refuses:

- You don't have to pay them, but...
- They may be eligible for state or local mandatory sick leave.
- You generally do not have to let them take PTO or vacation.
- They don't qualify for FFCRA EPSL (unless they otherwise meet one of the six reasons for qualification).
- This should disqualify them from unemployment.



# What if you offer work and they actually accept?

- For those returning after a break in service, plans should address:

Background checks;

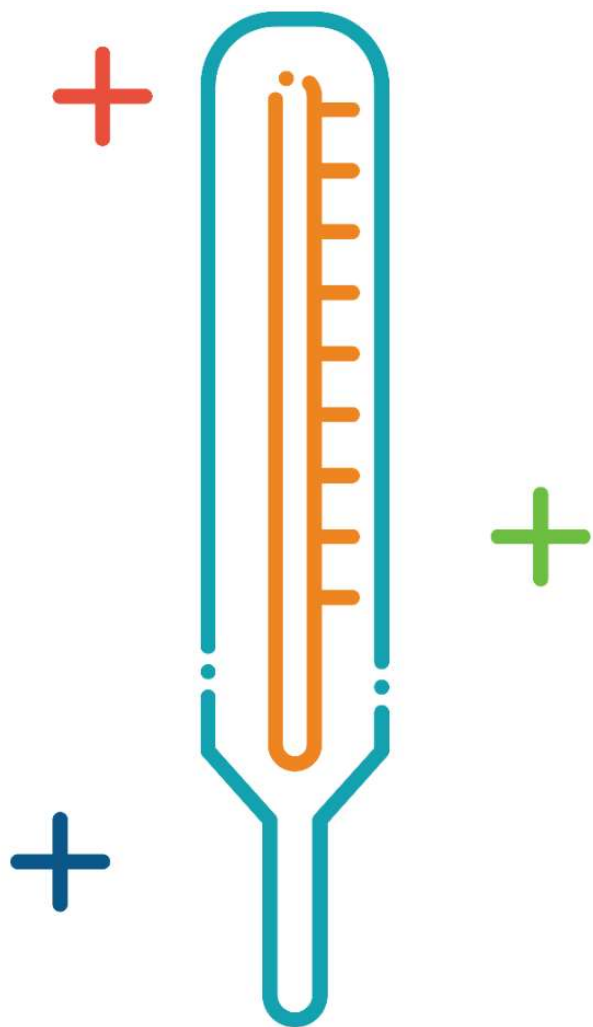
Drug tests;

I-9 compliance;

W-4, benefits forms, other new hire forms;

Waiting periods for benefits.

- Develop training and orientation programs for returning workers.



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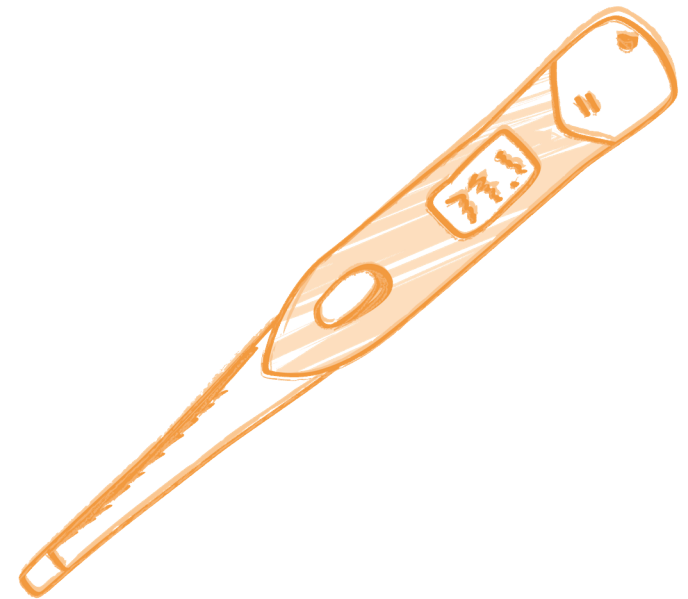
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## HEALTH SCREENINGS

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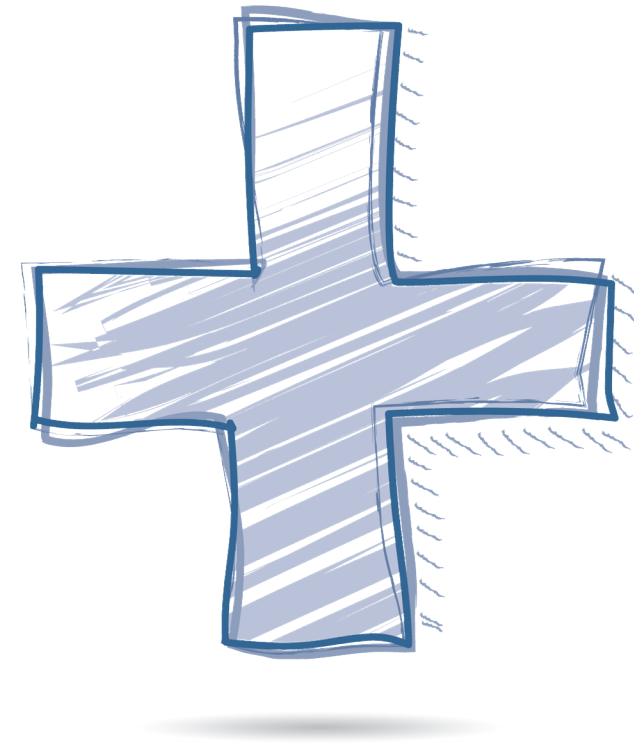
# Screening Workers

- Develop a health screening protocol for workers.
- Two components:
  - Temperature checks, thermal imaging or testing
  - Health screening interviews/questionnaires/employee attestations.



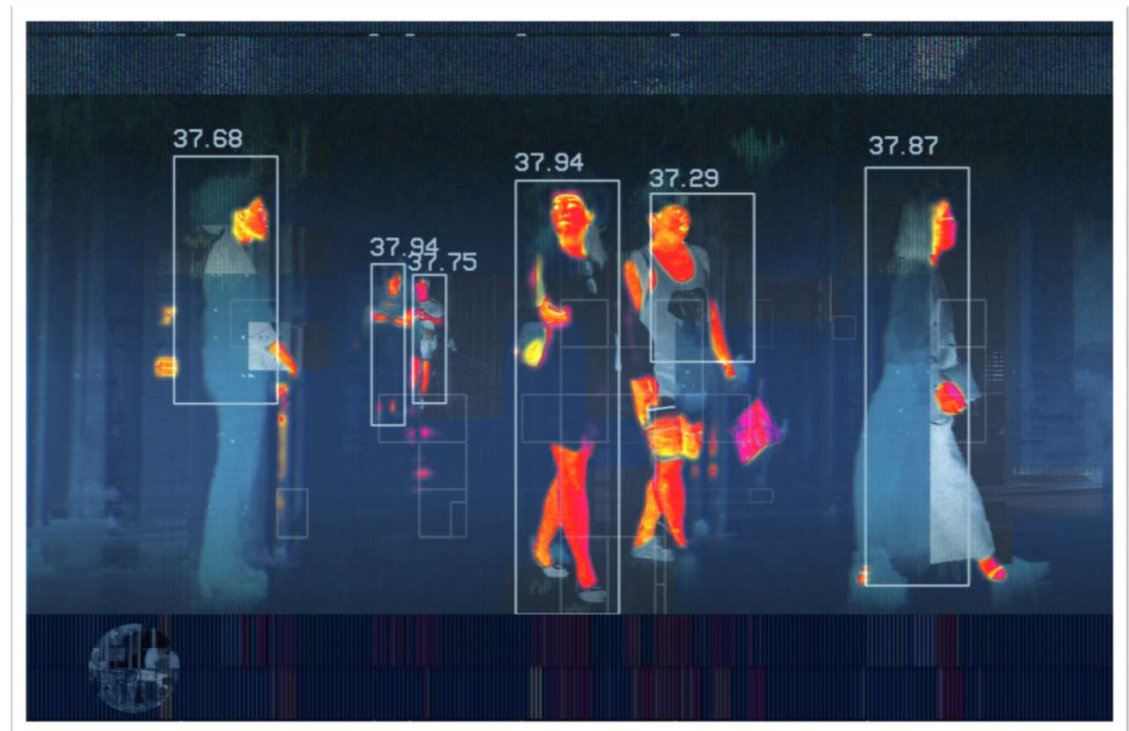
# Health Screening Protocol – Many Issues

- Where? at home, or once workers arrive at the premises?
- Pay for time spent waiting to be checked.
- Privacy and recordkeeping.

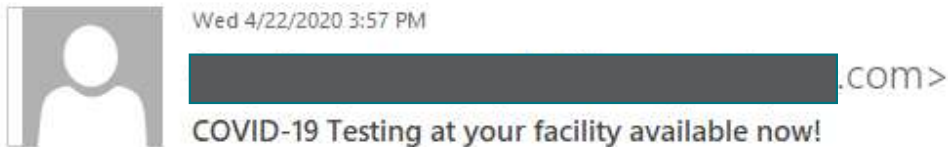


# Thermal Imaging?


- Perhaps less invasive than taking temperature.
- Can be done from 6 feet away.
- But, we still have all of the same logistical issues of temperature checks.
- Plus, heightened privacy concerns.



# In my inbox recently:



To [redacted]

 You forwarded this message on 4/22/2020 4:13 PM.  
If there are problems with how this message is displayed, [click here to view it in a web browser.](#)

## [EXTERNAL E-MAIL]

Dear Employer,

[redacted] can help you protect your employees by quickly and economically testing them for COVID-19.

[redacted] is currently helping [redacted] firemen, assisted living high risk residents and other university, government and non-profit organizations test participants at [redacted] Drive and Walk Through COVID-19 Test Sites. We are now offering this service to the general public. If you would like to get your employees back to work, we can help.

# EEOC Guidance

“... because an individual with the virus will pose a direct threat to the health of others... an employer may choose to administer COVID-19 testing to employees before they enter the workplace ...

... employers should ensure that the tests are accurate and reliable.”



# Three Types Of Testing

**Diagnostic or PCR.** Whether someone has been infected with the virus. Generally seen to be reliable.

**Antibody.** Whether an individual has developed antibodies to the virus (suggesting exposure). General medical consensus seems to be too little is known about what that actually means.

**Antigen.** Not yet on the market. No medical consensus about reliability.



# Testing – Bigger Question

- Test everybody before they return to work on Monday a.m.
- Anyone who shows infection gets sent home for fourteen days.
- Everyone else comes to work.
- What do you do with the workers who return on Tuesday?





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## FACE COVERINGS AND MASKS

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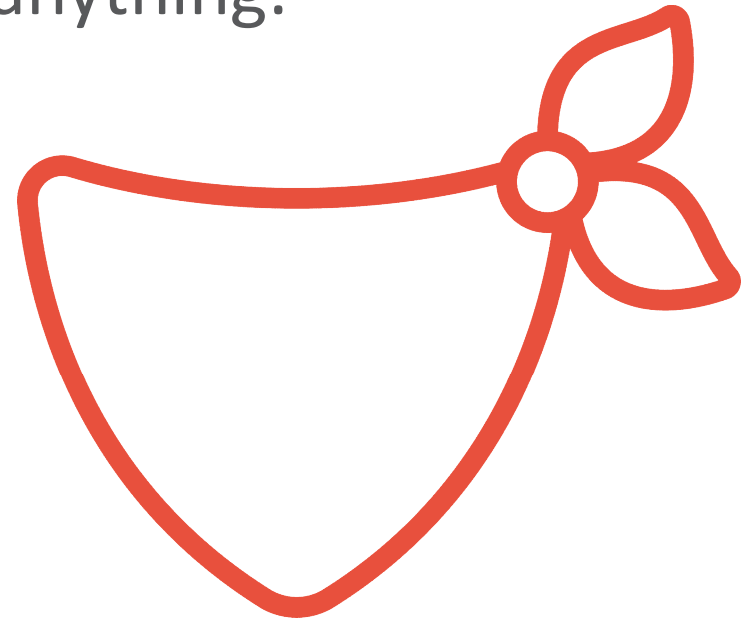
# Face Coverings

- Many jurisdictions have adopted guidelines recommending or requiring face coverings or masks in various industries and situations.
- **CDC:** recommends that everyone wear a cloth face covering in public settings where other social distancing measures are difficult to maintain.



# Face Coverings or Masks?

- Be careful with your terminology.
- Face coverings can be pretty much anything.
- A mask is more specific.
- And PPE is even more specific.



# Face Coverings Policy

- Payment for donning and doffing?
- Accommodation for persons who claim inability to wear coverings.
  - Deaf employees.
  - Employees with beards for religious purposes.



# Face Coverings Policy

- Who provides the coverings?
- Who pays for the coverings?
- Dress code – nothing offensive, no sports team logos, etc.
- Will employees be disciplined for failure to comply?



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**WORKING  
FROM HOME**

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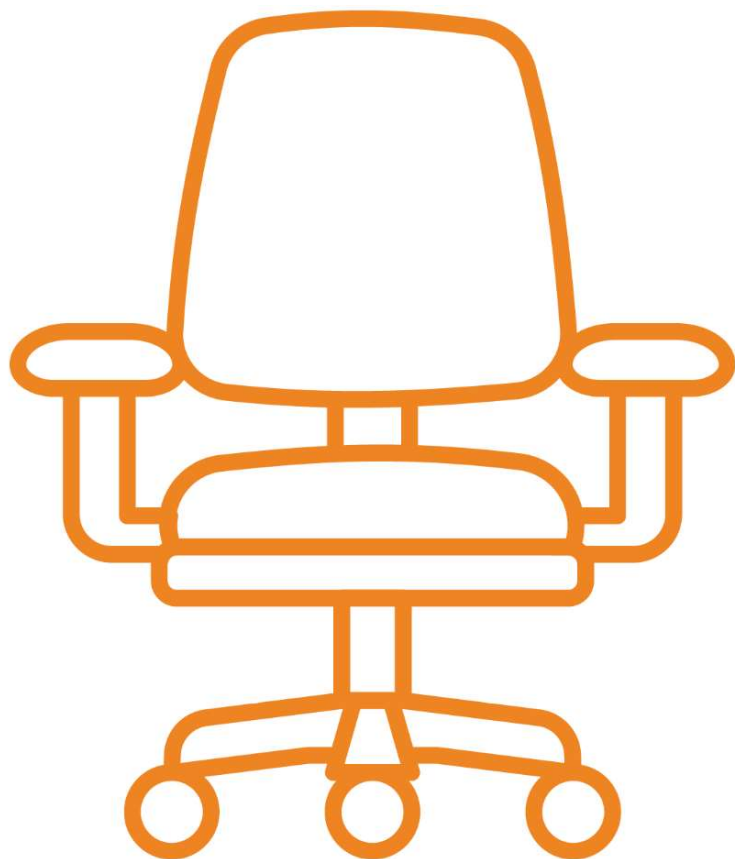
# Working From Home



## Logistical Concerns:

- **For Non-Exempt:** Timekeeping, off the clock work, meal and rest breaks, overtime.
- **For Exempt and Non-Exempt:** Expense reimbursement: Internet, cell phone, office supplies, rent, insurance etc.





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**ABSENT  
WORKERS**

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# Leaves of Absence – could apply whether your client's business is open or closed

Your  
policies/handbooks

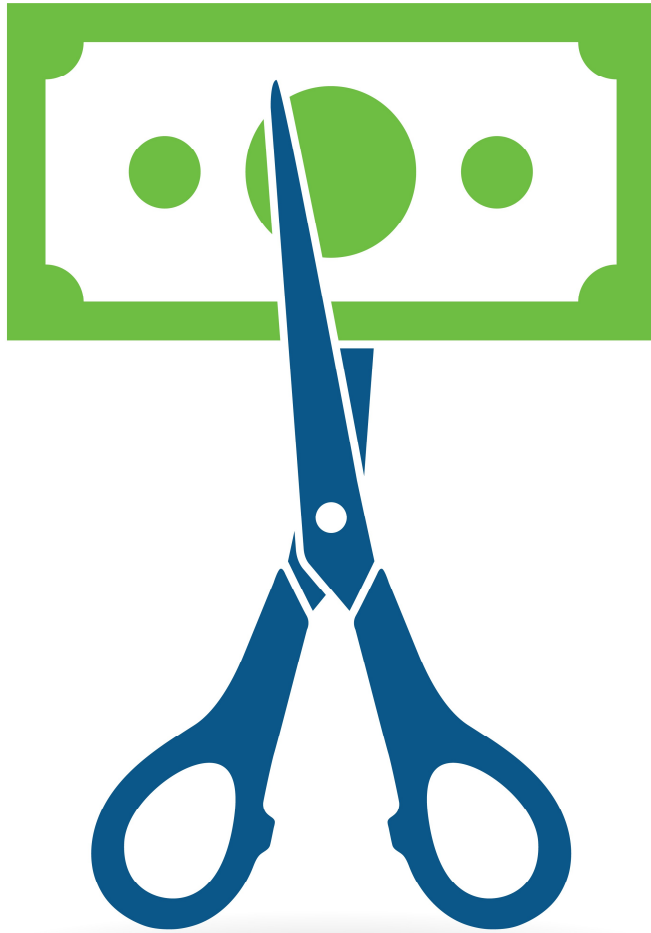
City sick leave laws (Los Angeles – covers employers with >500 employees)

CFRA

Federal FMLA

Families First  
Coronavirus Response  
Act – emergency sick  
leave, emergency FMLA

Leave of absence under  
the ADA as a  
reasonable  
accommodation



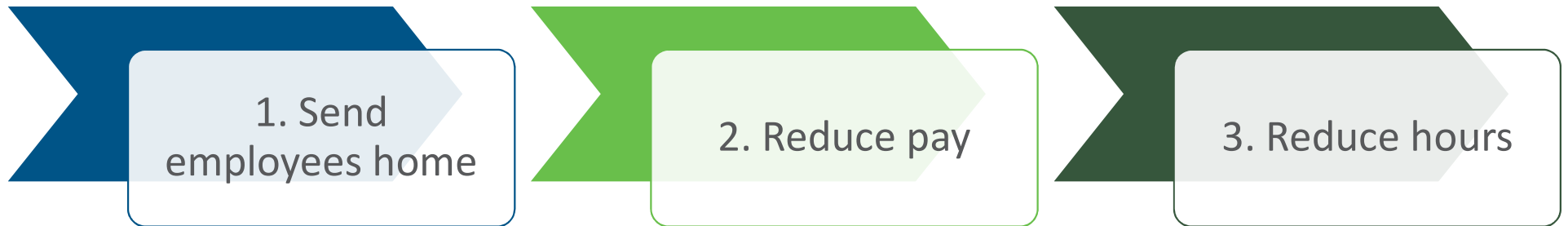
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**NOT ENOUGH  
WORK: REDUCING  
HOURS AND PAY**

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# NOT ENOUGH WORK – NOT ENOUGH REVENUE

If you don't have enough work or revenue to keep everyone at 100%...



# Sending Employees Home

1. Layoff – eligible for unemployment.
  2. Stay as an “employee,” but go on vacation and use your sick leave.
  3. “Temporary Layoff” or “Furlough”?
- **BEWARE!** # 2 or #3 = a termination of employment in California, which triggers the obligation to pay final wages and accrued but unused vacation.
  - **ALSO BEWARE!** How do you get workers their final paycheck if they are home sheltering in place? California requires payment at the place of employment, and imposes penalties for late payment.

# Reducing Pay

- **Non-exempt:** permissible on a going forward basis; pay at least minimum wage.
- California's Wage Theft Prevention Act requires formal written notification of change in pay rate, within 7 days. (Labor Code § 2810.5(b))
- Including the new rate in a timely wage statement furnished in accordance with Labor Code sec. 226 will suffice.



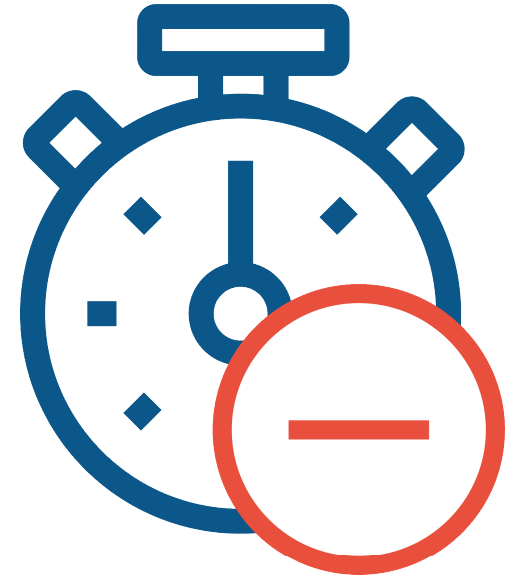
# Reducing Pay

- **Exempt:** Beware!
- **Remember that the test for exemption is a three part test:** quality, quantity, and compensation.
- Think of the compensation component like the “minimum wage” for exempt employees.
- California: \$54,080.
- If you pay less than that, you lose the exemption!
- California’s WTPA doesn’t apply to exempt employees.
- Suggestion: implement any change for a minimum of 6 months.



# Reducing Hours

- **Non-exempt:** permissible on a going forward basis; you pay only for hours worked.
- But, watch out for reporting time pay under state law.
- **Exempt:** Beware!
- Exempt employees get the same pay every week, regardless of the number of hours it takes to do the job.
- If you reduce hours and reduce pay by the same amount, it looks like the employee is really non-exempt.





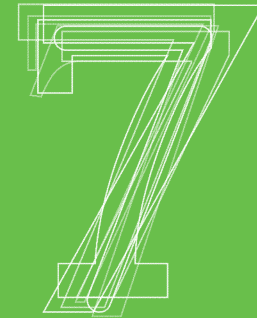
# Reducing Pay and Benefits

- Evaluate applying for EED's Work Share Program

# Increasing Pay – Watch out for overtime



- Remember that bonuses and pay increases impact the “regular rate of pay,” which is used to calculate the overtime rate.

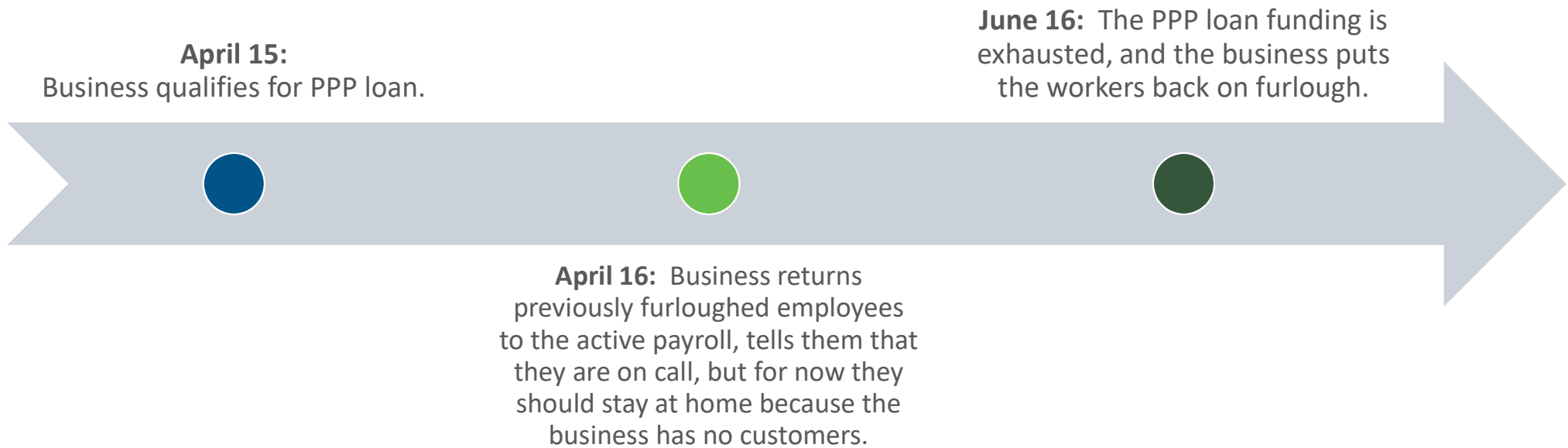


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## PPP AND THE WARN ACT

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# PPP and WARN - Scenario



## Question:

- Did the business violate the WARN Act?
- **Possible argument:** The removal of employees from the active payroll was not an “unforeseeable business circumstance.”
- The Company knew it was impossible to keep workers on the books for more than 8 weeks.



# Suggestions

- Support the efforts to reform WARN and eliminate this trap.
- **Pending that, provide WARN notice when employee are put back on the payroll:** “Welcome back to the payroll, this is to notify you that in 60 days you will be laid off.”



# In Closing.... what we know, what we don't...

- We do know how to apply current rules to the common workplace situations presented by the pandemic.
- We don't know what cities and states and the federal government will do tomorrow – the situation is hyper-fluid.
- We don't know what the science is going to look like tomorrow.
- We don't know exactly what the workplace will look like on the other side.
- We do know that the workplace will still exist in the future and that on the other side the role of work in our lives will be more important than ever.



# Questions?

This information provided by Littler is not a substitute for experienced legal counsel and does not provide legal advice or attempt to address the numerous factual issues that inevitably arise in any employment-related dispute. Although this information attempts to cover some major recent developments, it is not all-inclusive, and the current status of any decision or principle of law should be verified by counsel.





# Thank You!

**Bruce J. Sarchet**

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# Speaker Biographies

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## **Senator Tom Umberg**

### **Representing Senate District 34**

State Senator Tom Umberg is a retired U.S. Army Colonel, former federal criminal prosecutor, three term state legislator, small business owner and Deputy Drug Czar for President Clinton.

Senator Umberg began his military service at the Korean DMZ and served three overseas tours. Umberg served active military duty in 2009, leading the U.S. military effort to attack corruption within the Afghan Army and Police, for which he was awarded a Bronze Star for meritorious service in a combat zone.

As a federal criminal prosecutor, Senator Umberg had a 100% conviction rate, trying numerous white collar, civil rights and gang cases. He successfully tried over 100 cases to verdict or judgment.

Senator Umberg will continue working to keep our communities safe while also protecting the rights of workers, immigrants and women who deserve to be free from harassment and intimidation.

Senator Umberg served as Deputy Drug Czar for President Bill Clinton where he was responsible for foreign drug interdiction, counter-drug intelligence and international drug policy. Umberg has a deep understanding of the strategies and resources we need to stop the current opioid epidemic and to put an end to senseless gun violence in our communities.

Senator Umberg served three terms in the State Assembly, Umberg representing central Orange County. He worked across party lines, authoring 76 laws and bringing more than \$563 million in funds to Orange County.

Senator Umberg founded and built a successful veteran-owned small business in Orange County, recognized as one of California's preeminent boutique law firms by "Best Lawyers" and "The Daily Journal." Senator Umberg knows how to run a local business and will be a strong advocate for local small businesses, cutting red tape and unnecessary regulation.

Senator Umberg lives in Orange County with his wife Robin, who is a Retired Brigadier General. They have three adult children and one grandchild.



## Bruce J. Sarchet

Shareholder

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## Focus Areas

Labor Management Relations  
Leaves of Absence and Disability Accommodation  
Policies, Procedures and Handbooks  
Healthcare  
Training - Compliance, Ethics, Leadership  
Hospitality  
Workplace Policy Institute

## Overview

Bruce J. Sarchet has focused his entire legal career on the representation of management in labor and employment law matters.

Most recently, Bruce has provided advice and counsel to businesses in addressing the complex employment law issues presented by the COVID-19 coronavirus pandemic, including:

- Responding when there is a confirmed case of COVID-19 in the workplace
- Determining whether a business is “essential” and can stay open under state, city or county guidelines
- The Families First Coronavirus Response Act, providing emergency sick and family leave for workers
- Addressing employee personal safety concerns
- Reducing work hours and pay for employees
- Reductions in force, including WARN and Cal-WARN compliance issues
- Dealing with labor unions in responding to COVID-19

Bruce also has provided in-depth analysis and advice regarding compliance with California’s new independent contractor law, Assembly Bill 5 (A.B. 5).

He also serves as the California coordinator and liaison for Littler's Workplace Policy Institute (WPI). Bruce focuses on California state legislative and regulatory developments in employment and labor law, as well as municipal ordinances and regulation of the workplace. He assists the employer community in understanding and impacting California legislation before it becomes law.

As a member of WPI, Bruce has recently represented in federal court several trade associations in bringing constitutional law challenges to overbroad state laws, including a challenge to AB 51 which limits the use of employment arbitration agreements, and a challenge to AB 2455, which provides labor unions access to contact information for home care workers.

Bruce also has a wide-ranging practice representing private, public and nonprofit entities in all aspects of labor and employment law, including claims under the Private Attorney General Act (PAGA), wage and hour compliance, employment discrimination claims, and the National Labor Relations Act.

With energy, enthusiasm, and intense focus, Bruce provides clients with superior quality work and exceptional client service and has earned a reputation as a hands-on problem solver. He crafts practical, real world solutions to workplace problems such as dealing with difficult employees and recognizing and balancing business realities and necessities with the need to minimize exposure to litigation.

For unionized employers, Bruce frequently serves as chief spokesperson in collective bargaining negotiations and provides representation in grievances and arbitration hearings. He also represents employers during union organizing drives and unfair labor practice charges under the National Labor Relations Act.

From 2005 to 2013, Bruce served on the firm's five-attorney Management Committee, which handles the firm's operations. In this capacity, he oversaw thirteen Littler offices in seven states. Prior to his selection to the Management Committee, he served as the office-managing shareholder for the firm's Sacramento office and served several terms as a member of the firm's Board of Directors.

Prior to attending law school, Bruce was a high school social studies teacher and basketball coach for three years.

## Recognition

- Awarded, AV® Peer Review Rating, *Martindale-Hubbell*
- Named, The Best Lawyers in America®, 2019-2020

## Education

J.D., University of California, Hastings College of the Law, 1985

B.A., University of California, Riverside, 1979

## Bar Admissions

California

## Publications & Press

### **AB 5: The Aftermath of California's Experiment to Eliminate Independent Contractors Offers a Cautionary Tale for Other States**

*Littler Insight*

March 10, 2020

### **The Wild West 2020: WPI's California Legislative Round-Up**

*Littler Podcast*

March 10, 2020

### **California Court Concludes that Anti-Arbitration Law is Likely Preempted**

*Littler ASAP*

February 10, 2020

### **Uber, Postmates Seek to Halt Enforcement of California Employment Law**

*The Recorder*

February 5, 2020

### **Federal Court Halts Enforcement of California Arbitration Law**

*Littler ASAP*

February 1, 2020

### **New Jersey Enacts Legislative Package to Add Teeth to Worker Misclassification Laws**

*Littler ASAP*

January 27, 2020

### **Plaintiffs' Bar Seeks to Expand Reach of California's Dynamex Decision and ABC Test to Franchising, Joint Employment**

*Littler ASAP*

January 23, 2020

**California Supreme Court Grants Review of Dynamex Retroactivity – Again**

*Littler ASAP*

January 21, 2020

**Initiative to Overturn California Independent Contractor Law for App-Based Drivers, Deliverers Advances**

*Littler ASAP*

January 6, 2020

**Enforcement of California’s Anti-Arbitration Law Put on Hold**

*Littler ASAP*

December 30, 2019

**National and State Trade Groups Sue to Strike Down California “Anti-Arbitration” Law**

*Littler ASAP*

December 9, 2019

**The ABC Test: California State and Localities Support Plaintiffs’ Appeal, Signal Aggressive Enforcement**

*Littler ASAP*

November 18, 2019

**California AB 51 Bans Mandatory Employment Arbitration Agreements**

*ACC Docket*

November 12, 2019

**Worker Misclassification Questions Dominate California Legal Landscape**

*Littler ASAP*

October 31, 2019

**Restructuring Operations in the Wake of California AB 5? Don’t Overlook the Tax Implications**

*Littler ASAP*

October 29, 2019

**You’re Rehired? New California Law Prohibits No-Rehire Provisions in Settlement Agreements**

*Littler ASAP*

October 21, 2019

**Now what? Practical tips for navigating California post-A.B. 5**

*Thomson Reuters Westlaw*

October 17, 2019

**California AB 51 Bans Mandatory Employment Arbitration Agreements**

*Littler ASAP*

October 16, 2019

**Shock and Awe! California Employers Face Onslaught of New Regulations**

*Littler Insight*

October 14, 2019

**AB 5 Update: Joint Employment, Retroactivity, and Implementation Challenges**

*Littler ASAP*

October 11, 2019

**Dynamex Retroactivity Question Sent to California State Court**

*Littler ASAP*

September 25, 2019

**California's New Classification Law: What It Means For Employers and What You Should Do Now**

*TLNT*

September 23, 2019

**California AB 5's Author and the Governor Attempt to Clarify Law's Scope**

*Littler Insight*

September 23, 2019

**Now What? Practical Tips for Navigating California Post-A.B. 5**

*Littler Insight*

September 18, 2019

**AB 5 Update: California Legislature Passes Final Bill on September 11, 2019**

*Littler Insight*

September 13, 2019

**AB 5 Update: California Senate Committee Advances Bill to the Senate Floor**

*Littler ASAP*

August 30, 2019

**Best Lawyers in America® 2020 Edition Honors More Than 200 Littler Lawyers; 14 Named Lawyer of the Year**

*Littler Press Release*

August 15, 2019



**AB 5 Update: California Senate Committee “Suspends” Discussion, For Now**

*Littler ASAP*

August 13, 2019

**AB 5: The Great California Employment Experiment—A Littler Workplace Policy Institute Report**

*Littler WPI Report*

August 8, 2019

**Ninth Circuit Withdraws Opinion Regarding Retroactivity of Dynamex v. Superior Court, Will Certify the Question to the California Supreme Court**

*Littler ASAP*

July 24, 2019

**The Potential Effects of Calif. Contractor Reclassification Bill**

*Law360*

July 19, 2019

**California Legislature Moves Forward with Bill to Redefine Independent Contractor Relationships**

*Littler Insight*

July 16, 2019

**July Is Always the “New January” for Employment Laws, But This Year Takes the Cake!**

*Littler Insight*

June 13, 2019

**#MeToo Training 2.0: California Promotes Bystander Intervention Training**

*Littler Podcast*

March 13, 2019

**The Wild West 2019: WPI’s California Legislative Round-Up**

*Littler Podcast*

March 6, 2019

**The Preemption Power Struggle: Red States, Blue Cities Clash Over Workplace Laws**

*Littler Podcast*

February 20, 2019

**New 2019 California Employment Laws Creating Compliance Challenges**

*XpertHR*

February 15, 2019

**We Have to Provide California Anti-Harassment Training Again?**

*Littler Podcast*

January 17, 2019

**After the Ball Drops, What's New in California?**

*Littler Podcast*

January 2, 2019

**California Legislation and Regulation to Watch in 2019**

*Law360*

January 1, 2019

**How Will California's New Governor Approach Workplace Bills?**

*SHRM Online*

December 14, 2018

**California Allows Employees in the Construction Industry to Waive PAGA Remedies Pursuant to Qualifying CBAs**

*Littler ASAP*

November 20, 2018

**Oakland, California Passes Ballot Measure Targeting Hotel Employers and Creating New Enforcement Mechanisms for Employment-Related Ordinances**

*Littler Insight*

November 20, 2018

**Do New California Restrictions on Confidentiality Provisions Tie Employer Hands on Releases and Other Employee Contracts?**

*Littler Podcast*

October 29, 2018

**California's Newest Laws: It's Shocktober for Employers!**

*Littler Insight*

October 1, 2018

**California Countdown 2018: Which Labor and Employment Bills Will the Governor Sign?**

*Littler Insight*

September 4, 2018

**New and Already Improved! California Clarifies Its Salary History Ban**

*Littler Podcast*

August 21, 2018

**Best Lawyers in America® 2019 Edition Honors More Than 200 Littler Lawyers**

*Littler Press Release*

August 15, 2018

**California Enacts a Privileged Communication Law Regarding Sexual Harassment Claims**

*Littler ASAP*

July 12, 2018

**California's Pay History Ban: Common Questions; Practical Suggestions**

*Littler Podcast*

June 19, 2018

**July Is the New January: From Salary History to Data Security Breaches, New State and Local Laws Are Set to Take Effect Soon**

*Littler Insight*

June 12, 2018

**Don't "Panic": A New Legislative Trend for Hotel Employers?**

*Littler Podcast*

May 24, 2018

**The Wild West: A California Legislative Round-Up**

*Littler Podcast*

April 30, 2018

**Pending Bills Would Impose Requirements on State Employers**

*Central Valley Business Journal*

April 15, 2018

**5 Employee Handbook Issues to Watch in 2018**

*SHRM Online*

January 29, 2018

**New Tax Law, and Other Potential Reforms, May Change How Harassment Claims Are Resolved**

*Littler Podcast*

January 23, 2018

**Back to the Future: California Employment Bills Likely to Resurface in 2018**

*Littler Insight*

January 4, 2018

**5 Employee Handbook Issues to Watch in 2018**

*SHRM Online*

January 2, 2018

**Down the Rabbit Hole: Will 2018 Bring Changes to California PAGA Actions? (UPDATE)**

*Littler Podcast*

January 29, 2018

**Coming Soon: New Employment Laws**

*Central Valley Business Journal*

December 15, 2017

**Political Protests in the Workplace: Can Employees “Take a Knee?”**

*Central Valley Business Journal*

November 28, 2017

**Hustling to Hire Seasonal Workers in California? Know the Applicable Laws**

*SHRM Online*

November 22, 2017

**California Court Rules PAGA Plaintiffs Need Not Assert Injury, or Employer Knowledge, to Collect Penalties for Paystub Violations; Where Do Employers Go From Here?**

*Littler Insight*

November 16, 2017

**As of January 1, Salary History Is Officially History in California**

*Littler Podcast*

November 9, 2017

**Return of the Living Dead: Could Unsuccessful California Bills Haunt Employers in 2018?**

*Littler Insight*

October 23, 2017

**Service Animals in the Workplace: Do You Have to Let the Dogs In?**

*Central Valley Business Journal*

October 16, 2017

**With Governor Brown’s Signature, California Employers Face a Gauntlet of New Laws**

*Littler Insight*

October 16, 2017

**New California Law Prohibits Salary History Inquiries**

*Littler ASAP*

October 13, 2017

**California Countdown: Which Labor & Employment Bills Will the Governor Sign?**

*Littler ASAP*

September 20, 2017

**State Bill would Allow Disclosure of Home Care Workers' Private Information**

*Central Valley Business Journal*

September 13, 2017

**Scheduling Ordinances: The Next Big Employment Challenge?**

*Central Valley Business Journal*

August 23, 2017

**Predictive Scheduling Near Top of 2017 Workplace Trends**

*Xpert HR*

August 21, 2017

**Pay Equity at the Local Level: San Francisco Bans Salary History Inquiries**

*Littler Podcast*

July 20, 2017

**Another San Francisco Treat: Mayor Lee Signs Salary History Ban**

*Littler ASAP*

July 20, 2017

**Endless Summer: California Municipalities Continue to Enact a Variety of Employment Laws**

*Littler WPI Report*

July 10, 2017

**Employment Law Goes Local – California Municipalities Regulate the Hiring and Scheduling of Workers**

*Littler Podcast*

June 30, 2017

**July Is the New January: Beware of Employment Regulations About to Take Effect**

*Littler WPI Report*

June 27, 2017

**California's Fair Pay Laws Continue To Evolve**

*Littler Podcast*

June 13, 2017

**Golden State Worriers: California Labor & Employment Bills to Watch**

*Littler ASAP*

June 12, 2017

**Immigration Law Compliance: The Basics of I-9 Verification**

*Central Valley Business Journal*

June 5, 2017

**Federal Regulations: Reform on the Horizon?**

*Central Valley Business Journal*

April 3, 2017

**Gorsuch's Possible Impact on Employers**

*Central Valley Business Journal*

March 14, 2017

**Navigating California's Two-tier Minimum Wage**

*Central Valley Business Journal*

February 9, 2017

**California Employers Beware: Your Employee May Be A "Private Attorney General"**

*Littler Podcast*

February 1, 2017

**Drug Testing Without Taint of Retaliation**

*Central Valley Business Journal*

January 9, 2017

**California's New "Two-Tier" Minimum Wage**

*Littler Podcast*

January 5, 2017

**How the 2016 Election Could Impact the Workplace**

*Central Valley Business Journal*

December 9, 2016

**New Laws for Businesses**

*Central Valley Business Journal*

November 15, 2016

**California's New Fair Pay Act: Employer's Compliance Action Plan**

*Littler Podcast*

October 17, 2016

**Protecting Your Business's Online Reputation**

*Central Valley Business Journal*

October 5, 2016

**"Pokemon Go" in the Workplace**

*Central Valley Business Journal*

September 15, 2016

**Wage and Hour Self-Audit: Five Steps Toward California Compliance**

*Littler Podcast*

September 1, 2016

**Keeping Workers Safe When it's Hot Outside**

*Central Valley Business Journal*

August 4, 2016

**Time to Look at Employee Arbitration Agreements**

*Central Valley Business Journal*

July 21, 2016

**California's Recreational Marijuana Initiative**

*Littler Podcast*

June 27, 2016

**How a Change in Marijuana Laws Could Affect Your Business**

*Central Valley Business Journal*

June 21, 2016

**Navigating New York and California's Recent Wage & Hour Changes**

*Littler Podcast*

April 21, 2016

**New Law Requires Businesses to have Anti-discrimination Policies**

*Central Valley Business Journal*

April 8, 2016

**How to Deal with Employee Absences**

*Central Valley Business Journal*

March 29, 2016

**How to Comply with Fair Pay Act**

*Central Valley Business Journal*

February 19, 2016

**Can Workplace Violence be Prevented?**

*Central Valley Business Journal*

January 28, 2016

**Why Should I Care – My Business is Non-Union**

*American Business Magazine*

December 17, 2015

**Should Your Manager be Paid Overtime?**

*Central Valley Business Journal*

December 10, 2015

**Here's What Should be in your Employee Handbook**

*Central Valley Business Journal*

November 17, 2015

**How Obama's Executive Orders Affect Federal Contractors**

*Central Valley Business Journal*

October 27, 2015

**Legislature considers employment bills**

*Central Valley Business Journal*

September 1, 2015

**Social Media Quandary: Who Owns Contacts?**

*Central Valley Business Journal*

August 28, 2015



**Asking job applicants about criminal pasts — the do's and don'ts**

*Central Valley Business Journal*

July 21, 2015

**What managers should know about paid sick leave**

*Central Valley Business Journal*

July 1, 2015

**What managers should know about AB60 driver's licenses**

*Central Valley Business Journal*

June 11, 2015

**Follow These Steps to Hire the Best Workers**

*Central Valley Business Journal*

April 11, 2015

**Why Should Nonunion Companies Care About the NLRB?**

*Corporate Counsel*

March 13, 2015

**Personal cell phones and the company dime**

*Central Valley Business Journal*

March 13, 2015

**Is your employee a 'Private Attorney General'?**

*Central Valley Business Journal*

February 12, 2015

**What employers should know about sick leave**

*Central Valley Business Journal*

January 15, 2015

**The 2012 Global Employer: Highlights of Littler's Fifth Annual Global Employer Institute**

*Littler Report*

February 21, 2013

**Grocery union to target Nugget after contracts are signed**

*Sacramento Business Journal*

June 29, 2012

**The 2011 Global Employer: Highlights of Littler's Fourth Annual Global Employer Institute**

*Littler Report*

February 15, 2012

**California Appellate Court Rejects Automatic Attorneys' Fees to an Employee who Successfully Defends Against Lawsuit by Employer**

*Littler Insight*

October 24, 2011

**California Appellate Court Rejects Automatic Attorneys' Fees to an Employee who Successfully Defends Against Lawsuit by Employer**

*Littler ASAP*

October 20, 2011

## **Speaking Engagements**

**COVID-19 in the Workplace: Recent Developments and Compliance Challenges**

May 1, 2020

**COVID-19 in the Workplace: Compliance Challenges, Policy Options**

April 10, 2020

**COVID-19 in the Workplace: What We Know, What We Don't**

April 3, 2020

**It's NOT as Easy as A-B-C! Can California Businesses Still 'Depend' on Independent Contractors Post AB 5?**

December 16, 2019

**2019 Canada Conference**

Toronto, ON

November 21, 2019

**Focus on Social Media -- Social Media in the Workplace, Policies, Best Practices and Social Media Background Checks**

California Employment Law Council Annual Meeting, San Francisco, CA

November 15, 2019

**It's Shocktober for Employers: A 2020 California Legislative Employment Law Update**

October 22, 2019

**It's NOT as Easy as A-B-C! Practical Tips for Doing Business in California Post AB 5**

October 1, 2019

**Staying Alive After AB5 - Can California Businesses Still 'Depend' on Independent Contractors?**

August 8, 2019

**2019 Puerto Rico Conference**

San Juan, PR

April 12, 2019

**California's Newest Laws: It's Shocktober for Employers**

October 15, 2018

**Workplace Policy Institute State of Play: An Inside Perspective on Labor and Employment Policy in Congress and the Federal Agencies**

Littler Executive Employer, Phoenix, AZ

May 3, 2018

**2017 Employment Law Update**

The 2017 Executive Employer® Conference, Phoenix, AZ

May 11, 2017

**The Wage and Hour Feeding Frenzy: Current Legal Issues in the Food and Beverage Industry**

October 25, 2016

**Food and Beverage Industry Roundtable**

The 2016 Executive Employer® Conference, Scottsdale, AZ

May 6, 2016

**2016 Employment Law Update**

The 2016 Executive Employer® Conference, Scottsdale, AZ

May 5, 2016

**Employment Law Audit**

Riverside Employers Advisory Council

April 13, 2016

**The NLRB for Non-union Employers**

Cal SHRM Conference

April 12, 2016

**Supervisors: Your Most Important Liability**

Northern California Human Resources Association/HR West Conference

March 9, 2016

**Hiring Employees – An 11 Step Template**

San Mateo Employers Advisory Committee  
February 24, 2016

**Supervisors: Your Most Important Liability**

Central Valley Human Resources Association  
February 17, 2016

**2016 Employment Law Update**

Greater Stockton Employer Advisory Council  
January 22, 2016

**2016 Employment Law Update**

San Joaquin Human Resources Association  
January 20, 2016

**Employment Law Audit**

Kern County SHRM  
December 2, 2015

**Employment Law Update**

California Farm Labor Contractors Association  
November 12, 2015

**NLRB for Non-Union Employers**

Marin HR Forum  
October 20, 2015

**Workplace Bullying and Violence**

High Desert Employers Advisory Council  
August 13, 2015

**2015 Employment Law Update**

Littler, Phoenix, AZ  
May 7, 2015

**California's New Paid Sick Leave Law**

Central Valley Human Resources Association  
March 18, 2015

**The NLRB for Non-Union Employers**

HR West Conference - Northern California Human Resources Association  
March 4, 2015

**Conducting An Employment Law Audit**

San Joaquin Human Resources Association  
February 11, 2015

**Employment Law Update**

Greater San Joaquin Employers Advisory Council  
January 23, 2015

**Effective Hiring Practices**

California Farm Labor Contractors Association  
January 8, 2015

**Conducting an Employment Law Audit**

Northern California Human Resources Association, San Francisco, CA  
December 12, 2014

**Conducting an Employment Law Audit**

Northern California Human Resources Association, Santa Clara, CA  
December 9, 2014

**Employment Law Audits, Hiring, Violence in the Workplace**

Desert Communities Employer Advisory Council  
October 22, 2014

**Effective Hiring Practices**

Marin HR Forum  
October 21, 2014

**Avoiding the "Cat's Paw" and Conducting Effective Investigations**

East Ventura Employer Advisory Council  
October 15, 2014

**Effective Hiring Practices**

Central Coast Human Resources Association  
September 11, 2014

**Effective Hiring Practices**

Kern County Human Resources Association  
June 4, 2014

**Avoiding the Cat's Paw – Conducting Effective Investigations**

Annual Conference - Northern California Human Resources Association, Oakland, CA  
April 23, 2013

**Avoiding the Cat's Paw – Conducting Effective Investigations**

San Joaquin Human Resources Association, Stockton, CA  
March 13, 2013

**The Life-Cycle of Employee Handbook**

California Employer Advisory Council, Stockton, CA  
February 15, 2013

**5th Annual International Employment Law Update**

Littler Mendelson, Washington D.C.  
November 8, 2012

**Health Care Reform**

DeWitt Stearns, Sacramento, CA  
October 24, 2012

**Employment Law Update**

Littler Mendelson, Scottsdale, AZ  
May 10, 2012

**Health Care Reform**

California Hospital Association, Glendale, CA  
November 8, 2011

**Health Care Reform**

California Hospital Association, Sacramento, CA  
November 1, 2011

**Health Care Reform**

Sacramento Metro Chamber of Commerce, Sacramento, CA  
October 15, 2011

**Health Care Reform**

Roseville Chamber of Commerce, Roseville, CA  
June 17, 2011

**Northern California Employment Law Update**

Sacramento, CA  
January 20, 2011

**Northern California Employment Law Breakfast Briefings**

Sacramento, CA  
September 29, 2010

**2010 Employment Law Update**

Sacramento, CA  
March 5, 2010

**Landmines, Trends and Tools**

Sacramento, CA  
October 23, 2009

**Bruce Sarchet and Matthew Ruggles Speak at the San Joaquin Human Resources Association's Labor Law Conference and Silent Auction**

January 11, 2006

**Books & Book Chapters**

- Workplace Violence, *The National Employer*

## **Yashina Burns**

### **Propel Media**

Yashina Burns is Senior Corporate Counsel at Propel Media, an advertising technology company based in Irvine. She leads data privacy compliance efforts at the company and negotiates, drafts, and edits commercial agreements for global partnerships with brands and technology companies. Prior to joining Propel Media, she received her J.D. from UC Irvine School of Law in 2016 and represented tech startups in transactional matters. She currently serves as a Board Member for OCKABA, a committee member for JABA OC, and a leader for SunLaw OC, an in-house women's network. In her free time, Yashina enjoys singing karaoke and going on local and international food adventures.





## Melissa Petrofsky, Esq.

Employee Rights Attorney

Employment law has been Melissa's area of expertise for nearly a decade. Whether representing a sexual harassment victim, a whistleblower, or the victim of racial profiling, or an employer wrongfully accused of the same atrocities, Melissa uses her wisdom, experience, and empathy to avidly pursue her clients' rights.

She helps employers navigate through the web of workplace laws and rules, such as contractor classification, proper payment of overtime and other wage and hour issues, sexual harassment training, or leaves of absence (to name a few). She also provides advice and counsel to businesses in applying fair and equitable employee discipline procedures, while minimizing the risk of litigation. She has prevailed against attacks on the pleading, discovery motions, and dispositive motions. In fact, she has never lost a dispositive motion before any judge in California, in either state or federal court. Her sterling track record is due to her savvy approach: she doesn't take on a fight that she can't win.

She has settled cases before every major mediation service provider and every arbitration service. She is also on a first-name basis with many of southern California's most acclaimed employment law mediators, including retired judges. One of Melissa's guiding principles is to find the right mediator for each case, which can require months of negotiation with the other side. What Melissa provides every client is the tailored, impassioned advocacy she would provide to a family member.

Melissa's guiding principle has always been to empower her clients by using her legal skills to advocate for truth and justice. She has represented a multitude of small employers, including an event services organization, a medical research company, a medical group, and a music school. Melissa approaches every case with zealous representation -- she understands that every case is a person's life or business.

She has successfully managed a robust caseload with as many as 50+ matters simultaneously. However, her preference is to keep her caseload smaller, in order to provide boutique-style legal services.