

EMPLOYMENT LAW UPDATE

Relationship-Driven Results

December 2025

California Minimum Wage

Effective January 1, 2026, the California minimum wage is increasing to \$16.90/hour. For the City of San Diego, the minimum wage increases to \$17.75/hour. The exempt salary threshold, tied to the California minimum wage, increases to \$70,304/year.

Employers in California should take the following steps: (1) update minimum wage posters; (2) audit hourly rates for non-exempt employees to ensure compliance with the increases; and (3) audit salaries for exempt employees to ascertain the salary basis for the exemption is met.

JUDICIAL

California

Employer's Ignorance of the Law is Not a Good Faith Defense for Failing to Pay Minimum Wages

In *Iloff v. LaPaille* (2025) 18 Cal.5th 551, the California Supreme Court addressed two issues. First, the Court held that an employer who fails to pay minimum wages cannot avoid liquidated damages by claiming ignorance of the law or relying on an understanding with the worker that no wages would be paid. Second, the Court ruled that for an employer to establish the statutory “good faith” defense, the employer must show it made a reasonable attempt to determine and comply with minimum wage requirements.

The Court’s decision in *Iloff* highlights the importance for employers to conduct ongoing education about California’s evolving wage and hour laws.

California Supreme Court Narrowly Construes Statute Governing Failure to Timely Pay Arbitration Fees

In *Hohenshelt v. Superior Court* (2025) 18 Cal.5th 310, the California Supreme Court held that Code of Civil Procedure section 1281.98, which allows an employee to withdraw from binding arbitration if the employer fails to timely pay fees, should not be so rigidly applied where any late payment would automatically forfeit arbitration. Instead, the high court clarified that loss of arbitral rights occurs only when nonpayment is willful, fraudulent, or grossly negligent.

We are dedicated to providing the highest quality legal services and obtaining superior results in partnership with those who entrust us with their needs for counsel.

We enjoy a dynamic and empowering work environment that promotes teamwork, respect, growth, diversity, and a high quality of life.

We act with unparalleled integrity and professionalism at all times to earn the respect and confidence of all with whom we deal.

Areas of Practice

Appellate

Business Litigation

Community Association Litigation

Employment & Labor

Personal Injury

Product Liability

Professional Liability

Real Estate Litigation

Restaurant & Hospitality

Retail

Transactional & Business Services

Transportation

Trial & Civil Litigation

In light of *Hohenshelt*, the California Supreme Court has adopted a new reading of Code of Civil Procedure section 1281.98 that will give employers who failed to timely pay arbitration fees and costs the ability to argue that any such late payments were not willful or grossly negligent, or resulted from a good faith mistake, inadvertence, or other excusable neglect. There will likely be significant litigation over what circumstances are sufficient to excuse delayed payments of arbitration fees and costs. Nonetheless, timely payment of arbitration fees and costs will remain a best practice for employers seeking to enforce arbitration agreements.

California Court Clarifies Employer Liability for Off-Site Harassment

In *Kruitbosch v. Bakersfield Recovery Services, Inc.* (2025) 114 Cal.App.5th 200, a Court of Appeal held that although a coworker's unwelcome sexual advances outside the workplace were not sufficiently work related to be imputed to the employer under California's Fair Employment & Housing Act ("FEHA"), the employer's refusal to act and the human resource representative's mocking remarks could alter the work environment in an objectively severe manner, thereby creating a hostile work environment.

The plaintiff/employee, Steven Kruitbosch ("the Employee"), a male assistant corporate compliance officer at substance abuse treatment provider Bakersfield Recovery Services ("the Employer"), alleged that a female coworker subjected him to unwanted sexual advances, including sending him unsolicited nude images, visiting his home uninvited, texting him sexual propositions and an offer of drugs, and leaving a cucumber covered with a condom in his driveway. The conduct occurred while the Employee was on a leave of absence.

Upon returning to work, the Employee reported the coworker's conduct to the acting program director and the human resource representative. The acting program director told the Employee that not much could be done. That same day, the human resource representative made a mocking social media post and later told the Employee, "I hope you don't get no more pictures." The Employer did not try to separate the Employee and his coworker. The Employee claimed that he resigned within a week of returning from leave because he knew that the Employer would not do anything if his coworker harassed him again and because he was concerned about his sobriety.

The Employee filed a complaint. The trial court granted the Employer's demurrer and dismissed the case with prejudice without leave to amend. The Employee appealed.

The appellate court reaffirmed that off-site coworker harassment must be work-related for the employer to be liable under FEHA. The Court of Appeal found that the coworker's sexual advances, while egregious, occurred entirely outside the workplace and were not connected to any work-related event, employer-sanctioned activity, or benefit to the employer.

However, the court made clear that an employer's response to an off-site harassment complaint itself can create a hostile work environment, even if the off-site harassment is not work-related. The court emphasized that the "totality of

We are dedicated to providing the highest quality legal services and obtaining superior results in partnership with those who entrust us with their needs for counsel.

We enjoy a dynamic and empowering work environment that promotes teamwork, respect, growth, diversity, and a high quality of life.

We act with unparalleled integrity and professionalism at all times to earn the respect and confidence of all with whom we deal.

www.pettitkohn.com

California ♦ Arizona

the circumstances” must be evaluated to determine whether a work environment is reasonably perceived as hostile or abusive. In considering the totality of the circumstances, the court determined that the Employer’s response could have altered the Employee’s working environment in an objectively severe manner. The Employer’s refusal to investigate the complaint, failure to admonish the alleged harasser for the conduct, and making a mockery out of the Employee’s complaint could alter an Employee’s working environment in an objectively severe manner.

The decision in *Kruitbosch* underscores the importance of prompt and effective employer responses to harassment complaints and clarifies the boundaries of employer liability under FEHA for off-site sexual harassment claims.

Legislative

A number of new laws will impact California employers in 2026 and beyond. These laws include:

SB 294 The Workplace Know Your Rights Act

SB 294 requires employers to provide current employees and new hires with a standalone notice containing: 1) a description of rights relating to worker’s compensation, paid sick days, misclassification protections, immigration agency inspections, right to organize and engage in concerted activity, and constitutional rights when interacting with law enforcement at the workplace; 2) a description of new legal developments pertaining to laws enforced by the Labor Workforce Development Agency that the Department of Industrial Relations identifies as “material and necessary;” and 3) a Department of Industrial Relations created list of the agencies that enforce the laws listed in the notice. This new law also requires employers to notify an employee’s emergency contact if the employee is arrested or detained while at work. The new poster related to this law must be posted by February 1, 2026.

SB 648 Tip Theft

Labor Code section 351 declares tips to be the sole property of the employee to whom the tips were left and prevents employers from taking any portion of the tip.

Effective January 1, 2026, SB 648 amends Labor Code section 351 to expressly authorize the Labor Commissioner to investigate and enforce this section through a civil action or through the issuance of a citation.

SB 642 Equal Pay Act Amendment

Effective January 1, 2026, SB 642 (the “Pay Equity Enforcement Act”) extends the statute of limitations to bring a claim from two years to three years.

The Pay Equity Enforcement Act also amends the definition of “pay scale” to require the employer to make a good faith estimate of the expected salary or hourly wage range for a position upon hire.

SB 617 **CalWARN**

Employers must provide notice of mass layoffs, relocations, and closures. Effective January 1, 2026, SB 617 adds that an employer must provide employees with information regarding whether it plans to coordinate with the local workforce development board, or another entity, to assist impacted employees and what is being offered. CalWARN maintains both strict notification requirements and penalties.

SB 590 **“Designated Person” for Paid Family Leave**

Effective July 1, 2028, SB 590 adds a “designated person” to the list of covered family members for whom employees may take time off for and receive Employment Development Department wage replacement benefits. The “designated person” can be any individual related to a worker by blood or whose association with the worker is the equivalent of a family relationship.

SB 10 **Protection Against Threats in the Workplace**

SB 10 adds section 422.3 to the California Penal Code, making it an explicit criminal offense to make credible threats of mass violence against persons “at a daycare, school, university, workplace, house of worship, or medical facility.”

SB 513 **Employee Training Records**

Effective January 1, 2026, SB 513 expands an employer’s recordkeeping obligations and gives employees the right to receive copies of records of their education and training. These records must include: 1) the name of employee; 2) the name of training provider; 3) the date and duration of the training; 4) skills taught during the training; and 5) certification or qualification received from the training.

AB 692 **“Stay or Pay” Provisions**

As of January 1, 2026, employers cannot enter into a contract that requires employees to repay training, relocation costs, or other benefits if they leave the employer before a certain time. Only the following narrow exceptions apply: (1) government-sponsored loan forgiveness or tuition programs; (2) agreements for transferable educational credentials (under strict criteria); and (3) state-approved apprenticeship programs. AB 692 applies equally to voluntary and involuntary terminations.

Areas of Practice

Appellate

Business Litigation

Community Association Litigation

Employment & Labor

Personal Injury

Product Liability

Professional Liability

Real Estate Litigation

Restaurant & Hospitality

Retail

Transactional & Business Services

Transportation

Trial & Civil Litigation

www.pettitkohn.com

California ♦ Arizona