

THE ESSENTIALS - CALIFORNIA EMPLOYMENT LAW UPDATE

WELCOME TO THE ESSENTIALS - A SUMMARY OF NEW DEVELOPMENTS IN CALIFORNIA EMPLOYMENT LAW

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U.S. Labor, Employment, and Workplace Safety Alert

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UPDATE TO CHAMBER OF COMMERCE V. BONTA

We recently published an alert on the status of arbitration agreements in California after the Chamber of Commerce v. Bonta decision. In case you missed it, our alert is [here](#). A quick update to this case: the Chamber of Commerce filed an unopposed motion for extension of time so that the Chamber can file a petition for rehearing en banc by the 9th Circuit.

CA COURT OF APPEAL RULING IN WESSON V. STAPLES THE OFFICE SUPERSTORE, LLC SIGNALS POTENTIAL IMPACT TO FUTURE PAGA TRIAL FLOW

On 9 September, 2021, a California Court of Appeal in *Wesson v. Staples the Office Superstore, LLC* ruled that “(1) courts have inherent authority to ensure that Private Attorneys General Act (PAGA) claims can be fairly and efficiently tried and, if necessary, may strike claims that cannot be rendered manageable; [and] (2) as a matter of due process, defendants are entitled to a fair opportunity to litigate available affirmative defenses, and a court's manageability assessment should account for them.” *Wesson v. Staples the Office Superstore, LLC*, No. B302988, 2021 WL 4099059 at *2 (Cal. Ct. App. 9 Sept., 2021). In short, the court's ruling expands on the ruling in *Williams v. Superior Court*, 3 Cal.5th 531 (2017), and confirms that a trial court can prevent a PAGA trial from going forward (partially or wholly) when it cannot be tried fairly and efficiently given the scope and nature of the legal issues presented. It also confirms that a plaintiff's proof of his or her prima facie claims and a defendant's affirmative defenses must be considered in the assessment of whether a PAGA claim is unmanageable for trial purposes. However, unmanageable PAGA claims will not always result in striking the claim. Just as in class actions, lower courts are encouraged to work with the parties to address manageability concerns, such as adopting a feasible trial plan or limiting the scope of the claim. In light of this ruling, it is even more important for employers to focus discovery on obtaining information/documents to support the manageability defense.

TUNE IN TO OUR WEBINAR ON THE NEW CALIFORNIA EMPLOYMENT LAWS OF 2022:

On 28 October, our California Labor, Employment, and Workplace Safety lawyers will partner with the Southern California Chapter of the ACC and present on the new California employment laws of 2022. Registration is complimentary through the ACC: <https://www.acc.com/education-events/2021/new-california-employment-laws-2022>.

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