



Todd L. Nunn

Partner

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OVERVIEW

Todd Nunn is a partner in the firm's Labor, Employment, and Workplace Safety practice. He focuses on class action defense and labor and employment litigation. Todd has defended class actions on behalf of corporate and governmental clients in California, Washington, and other states. He has defended class and collective actions under the Fair Labor Standards Act and state laws regarding minimum wage, overtime, compensation plans, exemptions and classifications, rest and meal breaks, enforceability of arbitration agreements, and other wage and hour claims in state, federal and appellate courts.

Todd's practice in Washington has focused on defense of FLSA and state law class actions, and has resulted in court rulings clarifying fundamental concepts of minimum wage, overtime and break law. His practice in California has focused on defense of employers in wage and hour class actions and claims under the California Private Attorney General Act ("PAGA"). Todd has also defended nationwide and statewide breach of contract, consumer protection, government regulation, products liability, and environmental class actions.

Todd has written and spoken extensively on class actions and other litigation topics. He is the co-editor and author of two treatises on class actions: *Defending Class Actions in Federal Court* (Bloomberg 2018); and *State Class Actions: Practice and Procedure* (2nd ed. Aspen Publishing 2009) (updates through 2016). He is also an editor and author of the *Washington State Bar Association Civil Procedure Deskbook* (3rd ed. 2014). Todd has taught classes in complex litigation/class actions and civil procedure as an adjunct professor at Seattle University School of Law.

ACHIEVEMENTS

- Recognized in *The Best Lawyers in America*® for Litigation - Labor and Employment, Mass Tort Litigation/Class Actions - Defendants in Seattle, 2024

PROFESSIONAL / CIVIC ACTIVITIES

- Chairman, Electronically Stored Information Discovery Subcommittee, WSBA Court Rules and Procedures Committee, 2006-2010.

- WSBA Court Rules and Procedures Committee, 2005-2010.
- Deputy Mayor, City of Medina, 2004 - 2005.
- City of Medina City Council, 2001 - 2005.
- City of Medina Planning Commission, 1999 - 2001.

SPEAKING ENGAGEMENTS

- Presenter, Electronic Discovery: What You Must Know to Correctly Steer Your Client, Washington Civil Procedure: Let's Do it Right!, Washington State Bar Association CLE (2010).
- Presenter, Admissibility of Electronic Evidence, Northwest Justice Project Family Law CLE (2010).
- Presenter, Class Action Pre-Certification Tactics, Strafford Legal Briefings (2010).
- Presenter, Cloud Computing: Emerging E-Discovery Trends, Strafford Legal Briefings (2010).
- Presenter, Class Action Settlement Strategy, Strafford Legal Briefings (2010).
- Presenter, E-Discovery Best Practices and Compliance Guidelines, Center For Competitive Management Audio conference (2010).
- Presenter, The Amendments to the Federal Rules of Civil Procedure and Recent Case Law, Keeping Up with E-Discovery, National Business Institute (2009).
- Presenter, Electronic Discovery in the States and Recent Case Law, Keeping Up with E-Discovery, National Business Institute (2009).
- Co-Chair and Presenter (Problematic ESI), Advanced E-Discovery Conference, Washington State Bar Association CLE (2009).
- Presenter, E-Discovery Best Practices, It's E-lectric!, Decoding the Mysteries of E-mail, E-records, E-discovery and Computer Forensics, ARMA International (2009).
- Presenter, Electronic Discovery, Washington Association of Prosecuting Attorneys Spring Training Program, Civil Track (2009).
- Presenter, Government Lawyers Bar Association Spring 2009 CLE on Electronic Discovery (2009).
- Presenter, New Rule 502 and Inadvertent Disclosures, Strafford Legal Briefings (2009).
- Presenter, Federal and State Rules for e-Discovery, What Every Practitioner Needs to Know About e-Discovery, Seattle University School of Law (2009).
- Presenter and Panelist, Admissibility of Electronic Evidence, Practicing Law in the Electronic Era, Washington State Bar Association CLE (2009).
- Presenter, Meet and Confer - Complying with Tougher Discovery Rules, Strafford Legal Briefings (2009).

- Presenter, The Amendments to the Federal Rules of Civil Procedure and Recent Case Law, Keeping Up with E-Discovery, National Business Institute (2008).
- Presenter, Electronic Discovery in the States and Recent Case Law, Keeping Up with E-Discovery, National Business Institute (2008).
- Presenter, Participating in Electronic Discovery, Electronic Law Office Practice, Halfmoon Seminars (2008).
- Presenter, E-Discovery Practice, Second Annual E-Discovery Summit, Colorado Litigation Support Managers Association (2008).
- Panelist, Data Filtering, Processing, Review and Production: How It Works and Why You Need It, E-Discovery: An A-Z Workshop (2008).
- Panelist, Meet and Confer, E-Discovery: An A-Z Workshop (2008).
- Lecture on Admissibility of Electronic Evidence, Northwest Regional National Institute of Trial Advocacy (NITA) Program (2008).
- Presenter, E-Discovery Strategies for Rule 45 Subpoenas and Non-Party production, Strafford Legal Briefings (2008).
- Presenter, Electronic Discovery Today and Tomorrow, Washington Civil Procedure: Commencement to Post Trial Motions and Remedies, Washington State Bar Association CLE (2008).
- Presenter, Electronic Document Review, Strafford Legal Briefings (2008).
- Presenter, Electronically Stored Information, How to Succeed as a Modern Era Litigator, Washington State Bar Association CLE (2008).
- Presenter, State E-Discovery Rule Changes, the Latest Trends in E-Discovery, Washington Defense Trial Lawyers (2008).
- Presenter, Meet and Confer - Complying with Tougher Discovery Rules, Strafford Legal Briefings (2008).
- Presenter, Attorney Client Privilege in Electronic Communications, Strafford Legal Briefings (2008).
- Presenter, Microsoft e-Discovery Summit, Dallas, Houston, Texas (2008).
- Presenter, Emerging Discovery Issues – Electronic Discovery, Montana Defense Trial Lawyers Annual CLE (2007).
- Presenter, Electronic Discovery Rules and Ethics Discussion on Competence, Washington Council of School Attorneys' Fall Workshop (2007).
- Presenter, What About Problematic Forms of ESI: IM, Digital Voicemails, VoIP and Dynamic Databases, DRI E-Discovery Seminar (2007).
- Presenter, The Top Ten Worst E-Discovery Mistakes – and How to Avoid Them, Dare to Discover: How to Employ and Respond to Discovery Tactics, Washington State Bar Association CLE (2007).

EDUCATION

- J.D., University of Washington School of Law, 1993 (*Staff Editor, Articles Editor, Pacific Rim Law and Policy Journal, 1991-1993; National Order of Barristers; Member, Moot Court Honor Board*)
- B.A., University of Washington, 1990

ADMISSIONS

- Bar of California
- Bar of Washington

THOUGHT LEADERSHIP POWERED BY HUB

- 16 June 2022, The Supreme Court Rules the FAA Preempts Iskanian's Prohibition Against Arbitration of Individual Private Attorney General Act Claims
- 26 May 2022, California Supreme Court Raises the Stakes (Again) on Meal and Rest Break Law by Adding Derivative Penalties
- 10 December 2020, Looking to 2021: Top Labor & Employment Considerations for Washington Employers
- 1 June 2018, It's Epic: Supreme Court Approves Class-Action Waivers in Employment Agreements
- 12 October 2017, The Supreme Court Hears Argument to Decide Whether Class-Action Waivers in Employment Arbitration Agreements Are Enforceable
- 27 January 2017, Arbitration Is Back on the Docket: The Supreme Court to Review the Enforceability of Class Action Waivers in Employment Arbitration Agreements
- 16 September 2016, Considerations for Retail Industry Employers as They Continue to Prepare for New Salary Thresholds Under White-Collar Overtime Exemptions
- 24 May 2016, DOL Raises Minimum Salary Requirements for White-Collar Exemptions

OTHER PUBLICATIONS

- Holistic Privilege Protection: Protecting Privilege by Taking "Reasonable Steps" Throughout the Process of Production, DRI E-Discovery Connection Newsletter (2009).
- E-Discovery (Re)sources Abound, King County Bar Association Bar Bulletin (August 2008).
- Proposed Changes to Civil Rules, Electronically Stored Information, Litigation Section of the Washington State Bar Association Litigation News (Spring 2008).
- Protecting Customer Data: State laws vary, but principles stay the same, Insurance Journal West Edition (August 6, 2007).

- Protecting Customer Data under the Gramm-Leach-Bliley Act, Insurance Journal West Edition (March 12, 2007).
- New Rules Mean Bytes of Electronically Stored Info Could Have Big Bite, Insurance Journal West Edition (December 25, 2006).
- Co-Editor in Chief, 2007 Updates, Linda S. Mullenix, State Class Actions Practice and Procedure (CCH 2007).
- Author, Chapter 2: Preservation of Electronically Stored Information, “Understanding the New E-Discovery Rules” (DRI Defense Library Series 2006).
- Contributor to update of Chapter 13, E-Mails and Evidence in E-Commerce Contexts, Holly K. Towle and Raymond T. Nimmer, “The Law of Electronic Commercial Transactions” (A.S. PRATT & SONS, 2003).

AREAS OF FOCUS

- Labor, Employment, and Workplace Safety
- Appellate Litigation
- Class Action Litigation Defense
- E-Discovery Analysis and Technology (e-DAT)
- Insurance Recovery and Counseling

REPRESENTATIVE EXPERIENCE

- Represented a leading US-based online shopping company for consumer and small business travel in a number of class actions involving claims for unpaid wages and unreimbursed employee expenses brought on behalf of a broad range of employees in Washington State, California, and elsewhere. Disposed of one class action in federal court in Washington State through an early motion to compel individual arbitration; reached early settlements to resolve two other class actions in state courts in Florida and California. Developed a litigation strategy to quickly dispose of two additional class actions in state courts in Washington State.
- Defended a government agency against contract, statutory, and equitable class action claims for wages and penalties in relation to the time thousands of government employees spent commuting between their jobs and their homes in government-owned vehicles. Developed a strategy to dispose of the case through an early motion for summary judgment. After very limited discovery and expense to our client, the court granted our motion and dismissed the plaintiffs’ claims in their entirety.