



Art Silbergeld

Partner

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PRACTICES

- Labor and Employment

EDUCATION

- Temple University School of Law, J.D.
- University of Pennsylvania, Masters in City Planning
- University of Michigan, B.A.

ADMISSIONS

- California
- District of Columbia
- California USDC, Central District
- California USDC, Eastern District
- California USDC, Northern District
- California USDC, Southern District
- New York USDC, Eastern District
- New York USDC, Southern District
- New York USDC, Western District
- US Ct Appeals, 2nd Circuit (CT, NY, VT)
- US Ct Appeals, 9th Circuit (AZ, CA, HI, ID, MT, NV, OR, WA, Guam, M. Isles)
- US Ct Appeals, DC Circuit
- US Supreme Ct

AFFILIATIONS

- Los Angeles County Bar Association, Past Chair, Labor & Employment Law Section (1,200 members)

Art represents employers in high-stakes employment litigation and labor relations matters.

He has defended numerous employers in individual and class action lawsuits, including federal and state bench and jury trials. He regularly represents large and mid-sized corporations in these matters, and has first-chaired more than 100 employment litigations, arbitrations and NLRB trials.

Art is a counselor of choice for employers facing state and federal litigation involving complex claims of misclassification, overtime, meal period, discrimination, disability, harassment, wrongful termination, OSHA, whistleblower, retaliation, trade secret violations and cyberbullying in California and other states.

In the early stages of class actions, he works closely with in-house counsel and human resources executives to analyze personnel policies, practices and compliance in light of federal and California laws, evaluate pay practices and compensation data and develop creative strategies to win summary judgment or defeat class certification. Art has helped numerous clients successfully resolve disputes in early mediation before expending large legal fees, often before an initial status conference or the hearing on class certification. He is one of the few California attorneys to have defended several wage class actions through trial. He has counseled employers through self-audits of personnel and pay practices and advised on obtaining releases of claims from employees in order to avoid litigation or class certification.

Art was a trial attorney with the NLRB early in his career and represents employers in labor relations, including organizing campaigns, bargaining negotiations, strikes, picketing, boycotts, grievance and arbitrations, unfair labor practice proceedings, Section 301 litigation and multi-employer trust fund matters.

He has written over 150 articles and speaks extensively about employment law topics, including compliance under the FLSA and the California Labor Code. Art is the author of "Doing Business in California: An Employment Law Handbook" and "Complying With the Federal Family and Medical Leave Act and the California Pregnancy Disability Leave Law."

Recognitions

- Los Angeles County Bar Association, Past Trustee
- American Bar Association, Labor & Employment Law Section, Committee on the Development of the Law Under the National Labor Relations Act
- State Bar of California, Labor & Employment Law Section
- College of Labor and Employment Lawyers
- American Employment Law Council
- California Association of Workplace Investigators, Founding Member

COMMUNITY

- Human Rights Watch, Los Angeles Committee, Executive Committee, Governance and Dinner Subcommittees
- Los Angeles Child Development Center, Treasurer

- Fellow, College of Labor & Employment Lawyers
- Listed in "Southern California Super Lawyers," 2006-2023 (by Thomson Reuters)
- Listed in "The Best Lawyers in America®" 2011-2022 (by BL Rankings)

Experience

• Employment Litigation

- Defended the subsidiary of a major consumer products company in a federal district court class action claiming unpaid overtime and travel expense reimbursement violations. After challenging whether common issues of fact existed among the class members, plaintiffs waived deadline for filing motion to certify the class and filed a separate action for 52 other individuals in California Superior Court. After the state case was removed to the federal district court, 62 individual plaintiffs agreed to a settlement on terms favorable to the defendants.

- Defended a company that had relied on a background check company's forms to be compliant with the federal Fair Credit Reporting Act in a class action filed on behalf of more than 17,000 individuals claiming technical noncompliance with the act. We asserted that the company was not liable for the technical errors and successfully persuaded a general liability insurer to support a classwide settlement of all claims on terms favorable to our client. Less than 30 percent of the class responded to the claims forms sent out by a third-party administrator.

- Defended a national retailer in this and other litigation in Alameda County Superior and other state courts alleging misclassification of employees and failure to pay overtime. Directed the collection of information pertaining to salary and hours of work data. Assisted in bringing the matter to early settlement without protracted litigation.

- Defended a national retailer in a class action claim alleging failure to reimburse employees for expenses and failure to provide meal and rest periods. Resolved the dispute in a mediation on favorable terms.

- Defended a retailer in a class action claim alleging misclassification of store managers and assistant managers, failure to pay overtime, and failure to provide meal and rest periods. Successfully opposed certification of meal period class, and led an eight-day bench trial resulting in a reduction of the class size by approximately 60 percent.

- Defended a national nurse staffing company in a class action involving over 3,500 nurses alleging failure to pay overtime, improper pay practices, and meal period violations. Litigated case to the point of settlement on terms acceptable to the client.

- Defended a staffing company in federal district court against federal and state law claims that on-call employees working during off-hours were entitled to hourly pay. Successfully obtained an order that federal collective action opt-in procedures trumped state class action opt-out procedures, then obtained summary judgment resulting in dismissal with prejudice of all claims.

- Defended a video game production company in a class action in San Diego Superior Court alleging misclassification, failure to pay overtime, inaccurate wage statements and Section 17200 claims Settled before class certification hearing.
- Defended a fundraising organization in a class action in San Francisco Superior Court alleging failure to deliver final paychecks on time and various penalty claims. Settled in mediation before class certification hearing.
- After three administrative law judges and a trial court found a subsidiary of a major manufacturer liable for failing to pay retention bonuses to a class of employees who had been laid off, the client rejected the plaintiffs' counsel demand of \$1.8 million to settle. On appeal of the trial court's award of \$99,000 and an award to plaintiffs of over \$880,000 in fees, persuaded the California Court of Appeal that our client had no obligation to pay the bonuses in the first instance. The court reversed the award of fees. On a second appeal following the trial court's award of \$307,000 in catalyst attorneys' fees, obtained reversal and a remand directing the trial court to award our client all fees and costs in the eight-year litigation.
- Represented software company in recovering hardware and software following cybersecurity breaches by an employee who removed servers and laptops out of state without prior authorization.

Publications

- Quoted, "Legal Boom Nigh?", *Los Angeles Business Journal*, July 17, 2023
- "Sexual harassment offensive conduct continues", *Daily Journal*, July 10, 2023
- "Are Biometric Data Violation Cases Coming to a Courthouse Near You?" *Daily Journal*, May 18, 2023
- "Doing Business in California: An Employment Law Handbook," 4th ed., February 2017
- "Complying With the Federal Family and Medical Leave Act and the California Pregnancy Disability Leave Law," 2016
- Co-Editor, Chapter 7: "Discrimination in Employment," *The Developing Labor Law, Bloomberg BNA for the American Bar Association*, 6th ed., 2012 and Supplements
- "Bill May Shake Up Class Actions," *Los Angeles Daily Journal*, April 5, 2017
- "Texas Overtime Ruling Directly Affects California Employers," *Los Angeles Daily Journal*, December 1, 2016
- "NLRB Holds Employers Must Arbitrate Pending Grievances With Ousted Union," *Bender's Labor & Employment Bulletin*, November 2016
- "Sandquist v. Lebo Automotive: The California Supreme Court Decides 'Who Decides'," *Bender's Labor & Employment Bulletin*, October 2016

- "Tyson Foods: Supreme Court Okays Sampling Evidence to Prove Liability," *Bender's California Labor & Employment Bulletin*, June 2016
- "Justices Shutdown 9th Circuit on Overtime," *Los Angeles Daily Journal*, June 23, 2016
- "Supreme Court Strengthens the Enforceability of Class Action Waivers in Arbitration Agreements," *Bender's California Labor & Employment Bulletin*, February 2016
- "Employment Bills to Know About from 2015," *Los Angeles Daily Journal*, December 2015
- "On Assignment Staffing: Class Action Waivers Violate the National Labor Relations Act," *Bender's Labor & Employment Bulletin*, November 2015
- "Equal Pay Will Benefit Us All," *Los Angeles Daily Journal*, October 2015
- "How the NLRB Changed the Union Election Rules," *Bender's Labor & Employment Bulletin*, June 2015
- "California Supreme Court Empowers Unauthorized Workers to Seek State Protections," *Bender's Labor & Employment Bulletin*, September 2014
- "A California Employment Law Checklist," *Bender's Labor & Employment Bulletin*, May 2014
- "Sexual Harassment Claims in the Electronic Workplace," *The Los Angeles Daily Journal*, March 2014
- "Considering Pros and Cons of Arbitrating Class Actions," *Bender's Labor & Employment Bulletin*, September 2013
- "Wage Class and Representative Actions: Is Arbitration the 'Simpler, Faster, Cheaper' Solution?," *Bender's California Labor & Employment Bulletin*, December 2012
- "Leaves of Absence as Reasonable Accommodations: When is Enough, Enough Under the ADA," *Bender's California Labor & Employment Bulletin*, December 2012
- "Avoiding Post-Brinker [Meal and Rest Period] Liability Risks," *Law360*, April 2012
- "Sexual Harassment and The Law," *California Lawyer*, June 2011
- "Complex Issues in Class Action Defense," *Bender's California Labor & Employment Bulletin*, February 2011
- "The Key Role of HR in Defending Wage and Hour Class Actions," *Employment Relations Today*, Fall 2010