Proskauer

California Employment Law Notes

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Employer May Pursue Contractual Interference Claims Against Competitor for Raiding Employees and Customers

Guild Mortg. Co. v. CrossCountry Mortg. LLC, 120 Cal. App. 5th 885 (2026)

The California Court of Appeal revived a host of tort claims asserted against a company that allegedly executed a plan to recruit a competitor's employees, divert its customers, and appropriate its pipeline of active loan applications. Guild Mortgage alleged that over an 18-month period, CrossCountry Mortgage (CCM) induced and conspired with several Guild employees to "gut" Guild's Kirkland, Washington branch while those employees were still employed by and receiving compensation from Guild. Guild further alleged that CCM and its alleged coconspirators accessed Guild's computer systems and, without authorization, copied valuable information, including confidential customer, employee, and prospective borrower data and that CCM used this information to gain a competitive advantage. The alleged scheme culminated in the mass resignation of all, or virtually all, of the branch's employees.

In an arbitration proceeding against its former employees, Guild recovered nearly $11 million in lost profits, exemplary damages, restitution, attorneys' fees, and costs. In this parallel civil action against CCM, Guild asserted claims for: (1) intentional interference with prospective economic advantage; (2) negligent interference with prospective economic advantage; (3) tortious interference with contract; (4) violation of California Penal Code section 502, the Comprehensive Computer Data Access and Fraud Act (CCDAFA); (5) unfair competition under Business and Professions Code section 17200; and (6) aiding and abetting tortious conduct.

After two rounds of amended pleadings, the trial court sustained CCM's demurrer, concluding that Guild's claims were displaced by the California Uniform Trade Secrets Act (CUTSA) and dismissed the complaint.

The Court of Appeal reversed, holding that the former employees owed Guild an "undivided duty of loyalty" and that the former branch manager also owed Guild a fiduciary duty. The court further rejected CCM's argument that CUTSA displaced Guild's claims and specifically held that CUTSA does not preempt the CCDAFA. As the court explained: "Whereas CUTSA is geared toward combatting and remedying predatory conduct directed at certain types of intellectual property, the CCDAFA is geared toward combatting and remedying predatory conduct directed at electronic data and the ways in which it can be hosted, stored, and manipulated."

"Concrete Injury" Is Not Required To Establish FCRA Violation

Askins v. CRST Expedited, Inc., 120 Cal. App. 5th 1190 (2026)

Terry Askins applied online for a position with CRST, a trucking company. During the application process, CRST provided Askins with a disclosure form and indicated that a background check would be performed on him. Both before and during his employment, CRST conducted background checks on him. Askins filed a putative class action on behalf of all current, former and prospective applicants of CRST asserting that CRST conducted background checks without providing legally compliant disclosure and authorization forms. The trial court granted class certification but subsequently decertified the class based on the holding of *Limon v. Circle K Stores, Inc.*, 84 Cal. App. 5th 671 (2022), which held that a plaintiff must be able to allege a "concrete injury" to establish standing under the Fair Credit Reporting Act (FCRA). In this opinion, the Court of Appeal reversed the trial court's order decertifying the class after concluding that, contrary to *Limon*, the FCRA does not require a concrete injury for standing.

California Supreme Court Limits Use of CCP § 170.6 Motions to Disqualify Judges

J.O. v. Superior Court, 19 Cal. 5th 753 (2026)

Pursuant Cal. Code Civ. Proc. § 170.6, a party or attorney may disqualify a judge from a matter simply by signing an affidavit or orally stating under oath that the judge is "prejudiced" against a party, attorney, or their respective interests. If the motion is timely and properly presented, the disqualification is automatic and a new judge must be assigned without any judicial inquiry into the veracity of the affidavit or oral statement. *Solberg v. Superior Court*, 19 Cal. 3d 182 (1977). In this case, a particular judge from the San Joaquin County Superior Court had admonished an attorney from the Office of the County Counsel for actions that were improper; thereafter, County Counsel blanketly disqualified the judge in all conservatorship cases, filing an estimated 325 Section 170.6 disqualification motions against the judge in the span of less than four months. As a result of the blanket disqualification policy, the judge had to be reassigned to a different department. In this opinion, the Supreme Court overruled *Solberg* to the extent it permitted "blanket abuses" of Section 170.6 and, instead, adopted a more flexible shifting-burden test whereby a party may oppose such a motion by making a showing that the motion's proponent is lodging "blanket challenges" against a judge.

Former Flight Attendants May Proceed With Religious Discrimination Claims

***Brown v. Alaska Airlines, Inc.*, 2026 WL 1813213 (9th Cir. 2026)**

Former Alaska Airlines flight attendants Marli Brown and Lacey Smith sued their former employer for religious discrimination under Title VII and state anti-discrimination laws. The airline allegedly terminated their employment following their posting comments on an internal intranet communications network in response to the company's statement of support of the Equality Act, which was proposed federal legislation that would extend antidiscrimination protections based on sex, sexual orientation, and gender identity. Brown posted a facially religious statement that the Equality Act would "endanger the Christian church"; Smith posted a comment: "As a company, do you think it's possible to regulate morality?" The Ninth Circuit reversed the summary judgment that the district court had entered in favor of the airline, finding a genuine dispute of material fact as to whether Brown and Smith were terminated for their religious beliefs and not for violating the company's anti-harassment/anti-discrimination policies (as the airline contended). The appellate court also held that plaintiffs' state law claims against their union were not preempted by the Railway Labor Act. *Compare Jung v. Acosta*, 2026 WL 1830704 (Cal. Ct. App. 2026) (anti-SLAPP motion to strike former union employees' claims was properly granted because plaintiffs' claims arose from an official proceeding authorized by law (union judicial panel proceedings) and plaintiffs' claims lacked "minimal merit" and were in part preempted by the Labor Management Relations Act).

Another Day, Another AI Hallucination Case

Quinteros v. Harbor Distrib., LLC, 2026 WL 1693424 (Cal. Ct. App. 2026)

Here we go again. The lawyers representing the plaintiffs in this putative wage and hour class action were responsible for "evident misuse of generative artificial intelligence (AI) in an otherwise meritless pleading." The trial court ordered the attorneys to pay $5,000 in sanctions to the opposing party and $1,000 in sanctions to the court pursuant to Cal. Code Civ. Proc. § 128.7 based on a brief they filed containing "non-existent citations, fabricated quotations, and seriously misrepresent[ed] controlling authority." The Court of Appeal affirmed, holding that the procedural challenges to the order had been forfeited because they were not raised below in the trial court, and the substantive challenge (the "punishment does not fit the crime") was meritless. *Compare Amezcua v. Superior Court*, 120 Cal. App. 5th 116 (2026) (trial court erroneously ordered fee shifting from plaintiff to defendant pursuant to Cal. Code Civ. Proc. § 473(a) to penalize plaintiff's delay in seeking to amend complaint).

Arbitration Agreement Was Not Substantively Unconscionable

Cocom v. ABM Aviation, Inc., 2026 WL 1793637 (9th Cir. 2026)

In this putative wage and hour class action, the district court denied the employer's motion to compel arbitration after concluding it was procedurally and substantively unconscionable based on the analysis of *Cook v. University of S. Cal.*, 102 Cal. App. 5th 312 (2024). The Ninth Circuit, relying largely upon *Ayala-Ventura v. Superior Court*, 119 Cal. App. 5th 241 (2026), reversed, holding that the scope of the arbitration agreement was limited to employment-related claims (unlike the broader agreement at issue in *Cook*); the duration was "inherently limited" because employment-related claims cease accruing once the employment relationship ends; there was sufficient mutuality in that employment-related claims have an "inherent symmetry" because an employee is far more likely to sue the employer and third parties rather than the other way around; the agreement's bar on using arbitration awards for preclusive or precedential effect is not substantively unconscionable; and, finally, even if the waivers of representative PAGA actions were substantively unconscionable, those provisions would be severable. *Compare Phan v. Knight Sacramento SU Inc.*, 2026 WL 19056686 (Cal. Ct. App. 2026) (relying upon *Cook*, Court of Appeal affirms trial court's order denying employer's motion to compel arbitration vis-à-vis broader arbitration agreement); *see also In re Orr*, 178 F.4th 525 (9th Cir. 2026) (district court committed clear legal error by refusing to rule on whether it had compelled arbitration of plaintiff's individual PAGA claims based on the Federal Arbitration Act or the California Arbitration Act).

After 19 Years of Litigation(!) And a $43 Million Award, Judgment in Escrow Officer Wage Case Is Largely Reversed

Cortina v. North Am. Title Co., 2026 WL 1506576 (Cal. Ct. App. 2026)

In this 137-page opinion, which the Court of Appeal noted involves an even more "rare and beastly case" than *Duran v. U.S. Bank Nat'l Ass'n*, 59 Cal. 4th 1 (2014), the Court held that the trial court committed multiple prejudicial errors, including permitting a trial plan and format that contravened the holdings of *Duran*; rejecting the employer's affirmative defenses "out of hand" on a class wide basis; eliciting "representative testimony" from just 15 percent of the cohort of allegedly misclassified employees; failing to decertify the "exempt" class of employees based upon an unworkable trial plan; and appointing a referee to conduct a second phase of trial without the parties' consent and over "defendant's strenuous objections," leading to a $43 million judgment. *See also Taduran v. James R. Glidewell, Dental Ceramics, Inc.*, 2026 WL 1894062 (Cal. Ct. App. 2026) (trial court properly reduced PAGA penalties on a per-employee rather than a per-pay period basis and properly reduced the prevailing-party attorney's fees amount while applying a negative modifier (0.7) to the lodestar amount).

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