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Load-Bearing Compliance:

Building a Strong Defense Against PAGA and Employment Litigation

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Presenters

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CORE

Essential Services

We connect you with a dedicated local team of BBSI professionals who understand your goals and provide the support you need to achieve them, leveraging our suite of services to help your business thrive.

Payroll

The expertise of a dedicated Payroll Specialist and the convenience of BBSI's payroll portal simplifies and enhances payroll management to increase efficiency, accuracy, and compliance.

Human Resources

BBSI's HR Consultants offer strategic guidance in recruitment, training, culture, and employee relations for seamless business operations.

Risk & Safety

Our Risk & Safety Services help you strengthen your safety culture, mitigate risk, and develop training programs that keep your employees safe.

Business Strategy

Your BBSI Business Partner is there to help you analyze, plan, and implement tailored strategies that drive growth and performance in today's competitive business landscape.

myBBSI

Included in BBSI's CORE services is myBBSI, an integrated and innovative payroll and HR software that allows you to efficiently manage employee compensation, benefits, reporting, and HR processes in the office, or on the go.

MORE

Add-On Services

Health Benefits

- Medical, Dental & Vision
- Complimentary Ancillary Options
- Full-Service Administration
- Employee Education & Enrollment

Staffing & Recruiting

- Temporary, Temp-to-Hire, Seasonal & Permanent Placements
- Comprehensive Candidate Screening
- Onboarding & Turnover Assistance

Workers' Comp

- Pay-As-You-Go Premiums
- Employee Injury Hotlines
- Claims Management
- Shared Coverage Responsibility

Learning Management (LMS) & Applicant Tracking (ATS) Systems

- LMS: Scalable Content Packages, Professionally Developed Courses & Reporting Capability
- ATS: Indeed and LinkedIn Integrations, Job Creation, Posting & Candidate Tracking

Retirement & 401(k)

- Best-In-Class Investment Options
- Employee Education & Enrollment
- Plan Administration
- Compliance Support

BBSI™

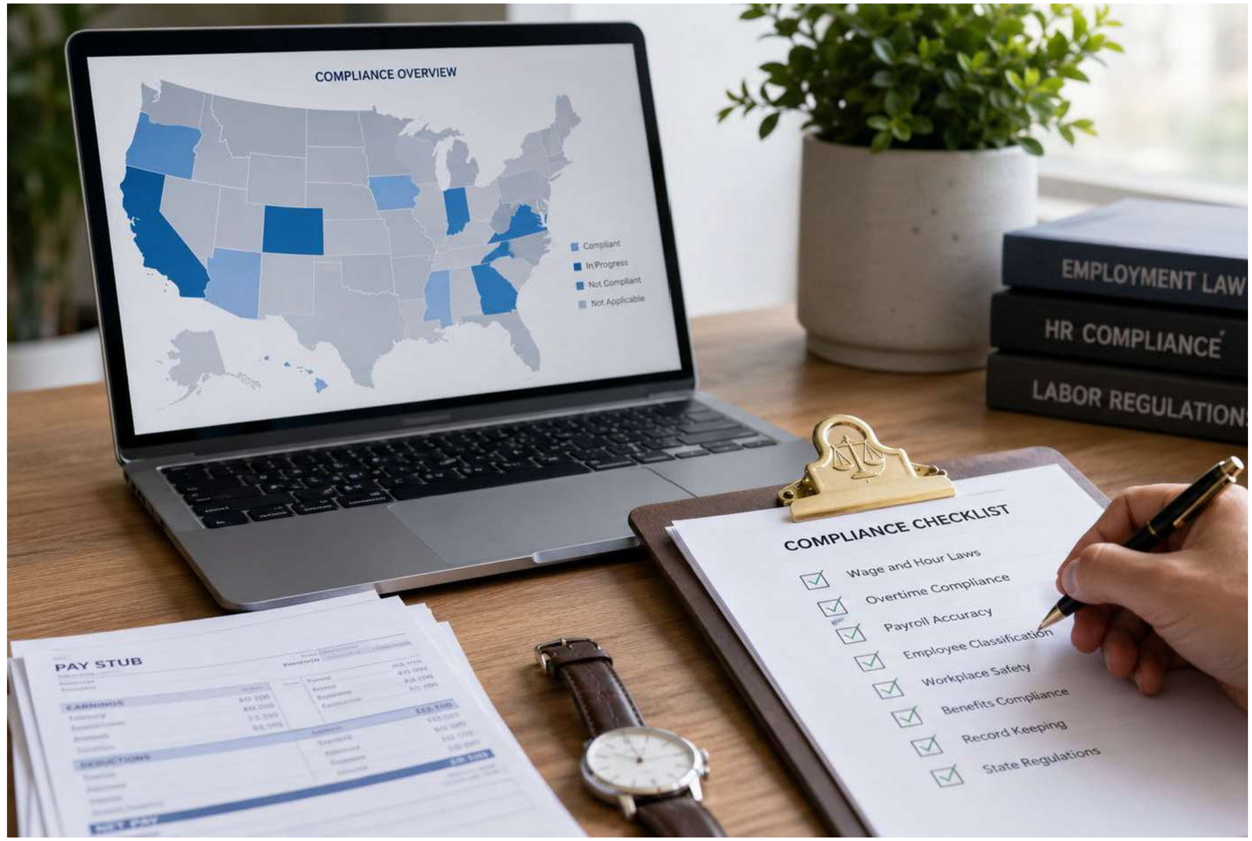
Agenda

- Employment Law & Litigation Trends
- PAGA Reform & Wage and Hour Compliance
- Identifying the Weak Points
- Building a Stronger Defense
- Key Takeaways & Discussion

Today's Objectives

- **Recognize** key employment law and litigation trends affecting employers
- **Understand** how PAGA reform impacts employer risk and compliance strategies
- **Identify** common wage-and-hour and workplace practices that create exposure
- **Evaluate** potential weak points in your own employment practices
- **Apply** practical strategies to strengthen compliance and reduce litigation risk

Multistate Compliance



What to look out for?

- Minimum Wage (state and local)
- Exempt salary thresholds
- Overtime triggers
- Break mandates
- Pay frequency requirements
- Final pay rules
- Expense Reimbursement requirements
- Paid Leave (Sick or Family Leave)
- Training Mandates
- Required Posters
- Review potential misclassifications

Wage And Hour Claims Can STACK UP Against Employers


POTENITAL CALIFORNIA
EMPLOYMENT LAWS FOR 2027
SIGN OR VETO

What is PAGA?

Private Attorneys' General Act (PAGA)

KEY DIFFERENCES BETWEEN CLASS ACTIONS AND PAGA CLAIMS

Feature	Class Action	PAGA Claim
Who Benefits?	A defined class of employees.	The State of California and affected employees.
Primary Goal	Recover unpaid wages or damages.	Enforce labor laws and collect penalties.
Certification Required?	Yes, must meet class certification criteria.	No, PAGA claims do not require class certification.
Statute of Limitations	Typically 4 Years.	1 year from the violation date.
Arbitration Agreements	Can be waived under arbitration agreements.	Cannot be forced into arbitration.

Latest PAGA filing trends

$1.3B

paid by California employers in PAGA settlements in the **first half of 2026** — roughly $200 million per month

~849

PAGA notices filed per month — on pace for a record year

~50%

of settlements resolve under $500K

44%

of settlements cover fewer than 200 employees

Main Changes to PAGA

- Reduction of penalties
- Restricting scope of claims
- Implementing manageability standards in litigation
- Cure provisions

"Reasonable Steps"

- Conduct Payroll Audits
- Update handbook and stand-alone policies and procedures
- Train managers on wage and hour compliance and consider training non-management as well
- Take corrective action against managers that violate policy/law


New Proposed
PAGA Regulations
CALIFORNIA EMPLOYERS
PAGA REGULATIONS

WWW.BBSI.COM


PAGA
Wage & Hour Compliance
Toolkit

Most frequent Wage and Hour Violations

- Minimum Wage
- Overtime and Regular Rate calculation
- Off the clock work
- Meal and Rest Period violations
- Inaccurate wage statements
- Untimely final pay
- Failure to reimburse business expenses
- Employee misclassifications

Minimum Wage

Minimum Wage as of 01/01/26 is $16.90 regardless of company size

Minimum Exempt Salary: $70,304 (two times CA minimum wage)

***Not impacted by City/County ordinances*

Specific **City/County Minimum Wage** rates may have increased Rates for **specific industries**.

Example: San Diego, Los Angeles, San Francisco

Fast Food Workers, "Tool Wage"

Overtime Requirements in California

Time Worked	Overtime Rate
More than 8 hours a day	Time and a half
More than 40 non-overtime hours in a workweek	Time and a half
7th consecutive day in a workweek	Time and a half
More than 12 hours a workday	Double Time
More than 8 hours on the 7th consecutive day in a workweek	Double Time

Time and a half means one and one-half times the employee's regular rate of pay. ***Double time*** means twice the employee's regular rate of pay.

Regular Rate

Base rate vs. Regular Rate

Examples of where the regular rate would apply:

- Multiple pay rates
- Commissions
- Nondiscretionary bonuses
- Piece work compensation
- Service Charges shared with non-exempt employees

Regular rate impacts the rate you pay the employees overtime and the rate of pay used when you pay out sick time or meal/rest period premium payments.

Off-the-clock Work

Pre-shift work: Activities like truck warming or loading, worksite preparation, or carrying job equipment.

Post-shift work: Cleaning up the workspace, equipment, and tools, finishing tasks that should be done by the end of the shift, or returning equipment.

Administrative work: Doing paperwork, attending meetings, reviewing work documents, taking work calls and answering work emails, outside of employee's working hours.

Rework: When employees are required to redo the project or fix project errors without getting paid.

Waiting for the next job assignment/project: When workers have to wait for their next tasks or projects.

Meal/Rest Breaks: Any work performed by an employee during their meal or rest breaks.

Meal and Rest Periods

Basic Requirements:

- A 30-min unpaid, duty-free meal period for every 5 hours worked
- A second 30-min unpaid, duty-free meal period if the employee works more than 10 hours in a workday
- Must "authorize and permit" a 10-min paid rest period for every four hours worked, or major fraction thereof, as long as they work a minimum of 3.5 hours

Waivers:

- If an employee is not scheduled to work more than 6 hours for the workday, they may voluntarily waive their meal period
- If the employee does not work more than twelve (12) hours in a workday, and has already taken the first meal period, they may voluntarily waive the second meal period
- You should always have signed waivers on file (on file until revoked)

Break Penalty Payment:

- Due if the meal period cannot be taken, is not taken timely, or is less than 30 minutes. Additionally, if the employees 10-minute rest period was not made available to them
- Penalty payment is 1 hour per day for rest breaks, and an additional penalty of 1 hour per day for meal breaks (for a maximum penalty of up to 2 hours wages per day). The penalty payment is paid at the employees regular rate of pay.

MEAL BREAK CHART

Number of Hours Worked Per Shift	Required Meal Breaks
5 hours or less	No meal break
More than 5 hours, up to 6 hours	One 30-minute meal break* Break must be taken before employee has worked 5 full hours.
More than 6 hours, up to 10 hours	One 30-minute meal break Break must be taken before employee has worked 5 full hours. Cannot be waived.
More than 10 hours, up to 12 hours	Two 30-minute meal breaks** 1st break must be taken before employee has worked 5 full hours. 2nd break must be taken before employee has worked 10 full hours.
More than 12 hours	Two 30-minute meal breaks 1st break must be taken before employee has worked 5 full hours. 2nd break must be taken before employee has worked 10 full hours. Breaks may not be combined, nor waived.

*Employee may waive this if the workday does not exceed 6 hours, but the waiver must be in writing.
**Employee may waive the 2nd break if the workday does not exceed 12 hours, but the waiver must be in writing.

REST BREAK CHART

Number of Hours Worked Per Shift	Required Paid Rest Breaks
Less than 3.5 hours	No rest break
3.5 hours to 6 hours	One 10-minute rest break
More than 6 hours, up to 10 hours	Two 10-minute rest breaks
More than 10 hours, up to 12 hours	Three 10-minute rest breaks
More than 12 hours	Four 10-minute rest breaks

Payment of Wages

Must be paid at least twice during each calendar month on days designated in advance as regular paydays.

For weekly and bi-weekly pay schedules they must be paid within seven calendar days of the end of the payroll period

If pay periods are between the 1st and 15th days and the 16th and last day of the month. You must pay the 1st-15th no later than the 26th of the month and the 16th and the last day of the month no later then the 10th of the following month.

Employers may pay wages by direct deposit if voluntarily authorized by the employee. An employer cannot require that the employee accept payment via direct deposit.

Compliance with the California Paystub Requirements under Labor Code Sec 226.

Every employee is required to receive (paper or electronically) an itemized wage statement. Employers should keep these records for a minimum of four years.

California Labor Commissioner's Office

Pay stub (hourly)

SMITH AND COMPANY, INC.
123 West Street Smalltown, CA 98765

EMPLOYEE	SOCIAL SECURITY NO.	PAY RATE	PAY PERIOD
Johnson, Bob	XXX-XX-6789	18.00 regular 27.00 overtime	1/7/XX to 1/13/XX

EARNINGS	HOURS	AMOUNT
Regular	40.00	720.00
Overtime	2.00	54.00

GROSS EARNINGS:	774.00
TOTAL DEDUCTED:	213.29
NET EARNINGS:	560.71

DEDUCTIONS	AMOUNT
Federal W/H	60.45
FICA	47.99
Medicare	11.22
CA State W/H	10.04
CA State DI	6.19
401k	77.40

SICK LEAVE:
24.00 HOURS AVAILABLE

Pay Stub (Piece Rate)

Smith And Company, Inc.
123 West Street, Smalltown, CA 98705

Employee:	SSN or Employee ID:
Johnson, Bob	XXXX-XXX-6789

No. Of Pieces:		Piece-rate:	Amount:
720		0.50/ft	$360.00
864		0.25/ft.	$216.00
1440		0.10/ft	$144.00
Total Earned for Productive Work			$720.00
	Hours	Rate/Hour	Amount:
Productive	36.83*	$19.55	$720.00
Non-productive	1.50*	$15.00	$22.50
Rest Time	1.67	$19.37**	$32.35
Vacation Used	0.00	$15.00	$0.00
Sick Leave Used	0.00	$15.00	$0.00
Overtime	0.00	$9.69**	$0.00
Double time	0.00	$19.37**	$0.00
Total	40.00		
		Gross Earnings	$774.85

Pay Period:
1/7/XX to 1/13/XX
Date:
1/20/XX

Deductions:	Amount:
Federal W/H	$60.45
FICA	$47.99
Medicare	$11.22
CA State W/H	$10.04
CA State DI	$6.19
401k	$77.40
Total Deductions:	$213.29
Total Hours in Pay Period	
Regular:	40.00
Overtime:	0.00
Double time:	0.00
Total	40.00
Available Sick Leave:	24.00 hours
Gross Earnings:	$774.85
Total Deductions:	$213.29
Net Earnings:	$561.56

Final Paycheck Deadline at a Glance

Separation Type	Deadline
Fired	Same day, at the place of termination
Laid off	Same day, treated like a firing
Quit with 72+ hours notice	Last day worked
Quit with no notice	Within 72 hours of quitting

Common Reimbursements

- Travel Expenses
- Business use of personal cell phone
- Fees for attending conferences
- Costs of a work uniform
- Expenses related to entertaining business associates
- Driving costs, including a mileage reimbursement for distance traveled and tolls paid in a personal vehicle
- Postage
- Training or education costs.

Employee Misclassifications

Non-Exempt Employees (Hourly)

- Earn overtime pay
- Are paid at least minimum wage
- Must take meal and rest periods.

Exempt Employees (Salary)

- Exempt from overtime requirements
- Must meet a minimum salary threshold of two times minimum wage (currently $70,304 annually)
- Completion of job duties regardless of the time it takes
- Must meet the requirements under the duties test

Exempt Duties Test

- Job title is not relevant, it is the actual duties and responsibilities that count
- Customarily and regularly exercise discretion and independent judgment in their jobs
- At least 50 percent of an employee's time must be spent performing exempt job duties
- Employee's primary duties must consist of administrative, executive, or professional tasks

Administrative

Nonmanual work directly related to management or general business operations, this would include areas such as Marketing, Accounting, and Human Resources. This would not include positions such as Secretaries, Store Clerks, Bookkeepers, and Lead Operators.

This is the most litigated category and should be looked at carefully.

Executive

Executive employees receive little direct supervision, directly supervise two or more employees, primary duty is the management of a business or one of its departments, and have the authority to hire, fire, or discipline employees or to make recommendations that hold significant weight.

Professional

Licensed Professionals, Learned Professionals (Specialized Study), and Creative Professionals (artistic or creative focus).

Employee Misclassification (continued)

EMPLOYEE	OR	INDEPENDENT CONTRACTOR
Working for someone else's business		Running their own business
Paid hourly, salary, or by piece rate		Paid upon completion of project
Uses employer's materials, tools and equipment		Provides own materials, tools and equipment
Typically works for one employer		Works with multiple clients
Continuing relationship with the employer		Temporary relationship until project completed
Employer decides when and how the work will be performed		Decides when and how they will perform the work
Employer assigns the work to be performed		Decides what work they will do

Misclassifying independent contractors can get employers in trouble with the DOL and IRS. If you misclassify a worker, you could be subject to substantial penalties and fines.

The penalties can be over six figures per employee, in many cases representing the end of the company.

The California civil penalty for misclassification is up to $25,000 per “employee” along with back pay, overtime, compensation for non-provided benefits as well as all payroll related taxes, unemployment and workers compensation. Additional penalties if 1099’s were not being issued to the Independent Contractor.

PAGA Quick Check

Mitigate PAGA Exposure

- Conduct Regular Audits
- Maintain Clear Policies
- Train your Managers
- Fix issues immediately

Key Takeaways

- Know where your highest risk is
- Don’t assume a policy protects you if your practices don’t match it
- Make sure timekeeping reflects all time actually worked
- Train managers because many compliance problems start at the supervisory level
- Identify and correct problems before they become claims


QUESTIONS

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