



CLASS AND COLLECTIVE ACTIONS

ON YOUR TEAM

No area of labor and employment law involves higher stakes or has grown faster as an area of concern for employers than Rule 23 class actions and FLSA collective actions. Statistics from the federal courts show an explosion of labor and employment class action litigation - up nearly 230 percent in just six years.

Barnes & Thornburg has the ability and experience in defending these high stakes employment cases bringing to bear the resources of one the nation's most highly rated labor and employment law practices. The recent expansion of our Los Angeles office has greatly enhanced Barnes & Thornburg's ability to defend clients in class, collective and representative actions, adding attorneys with experience in successfully resisting class certification and taking defensible cases up through trial.

Although the plaintiff's bar is continually varying the types of cases brought, these cases have included:

- Wage and hour class actions, including exempt status misclassification, -off-the-clock- cases and regular rate of pay claims
- State law employment claims, including record keeping violations, meal and rest period claims and other working condition claims
- Employment discrimination and pattern and practice claims including those brought by the EEOC; and
- Independent contractor misclassification claims

Because of some of its state laws, employment class actions are brought disproportionately in California. Our California employment and litigation teams have experience in defending these cases, no matter how complex,

Labor and Employment Blog

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including exempt status classification cases, independent contractor classification issues, meal and rest period claims, off-the-clock issues, and suitable seat cases, among others. We have litigated these cases in every District Court in California and through arbitration. We have the ability to bring local talent to bear when our clients are sued in California. The experience of our Los Angeles colleagues also provide Barnes & Thornburg's teams with increased depth and experience in handling class claims, regardless of where they are brought.

We also have significant experience dealing with the issues that uniquely arise when litigating against the EEOC. The EEOC is aggressive as a Plaintiff, with no apparent cost constraints. It will -build- its case to litigate through the Charge investigation process, conducting numerous interviews and issuing subpoenas as a prelude to litigation. Frequently, employers must deal with tag-along private attorneys who are looking to ride on the EEOC's coat tails in search of a pay day. Our attorneys are familiar with dealing with these and other issues confronting clients when they are in the cross-hairs of a determined government agency. We have guided clients to successful resolutions in similar circumstances.

We also have the litigation support infrastructure to efficiently assist handling document-intensive cases. We have a team of dedicated litigation support staff with more than 50 years of combined litigation support experience. We also have network IT staff members who spend a significant amount of time on litigation and are adept at assisting with e-Discovery issues. Because of our low overhead, we can provide these services on a cost-competitive basis in-house or work with client selected vendors.

Barnes & Thornburg's national labor and employment team is adept at assisting clients by aggressively defending class and collective actions - and taking proactive steps to avoid these lawsuits in the first place. We have developed legal strategies that have mitigated exposure and allowed favorable resolution for a number of cases.

The most profitable relationships we can achieve with our clients are those relationships that provide the client with the best value for their money. The first step in budgeting and planning for a potential litigation matter involves selecting the appropriate blend of staffing experience. We focus on staffing our litigation matters in the most cost-effective manner that still leverages the skills and experience that cause clients to select us in the first instance. Our goal is to staff litigation matters in a manner that will result in the best service to our clients in the most efficient way.

Of course, the best lawsuits are those that are prevented. Our attorneys are skilled in auditing employers- policies and practices, which we believe is a manageable and prudent investment in litigation avoidance. We can also assist clients in crafting policies and procedures that can mitigate risks and deal with the challenging legal environment we all work in today.