



→ Derek Havel

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Derek Havel is a partner in the Labor and Employment Practice Group in the firm's Los Angeles office, where he is also the Office Managing Partner.

Areas of Practice

Derek handles all facets of the litigation process in labor and employment disputes. He has significant experience in defending wage and hour class actions, including claims for overtime pay, meal and rest period violations and vacation pay. In particular, Derek has extensive experience in the healthcare, food and beverage, financial services, and retail industries. He has successfully defeated class certification motions and prevailed on summary judgment motions in class actions.

Derek has considerable jury trial experience in defending both class actions and single plaintiff employment cases. He has successfully defended labor and employment disputes under both state and federal law, including discrimination on the basis of race, sex, age, religion, disability, national origin, marital status, sexual orientation and other classifications. He has specific experience under the California Fair Employment and Housing Act, Title VII, the Age Discrimination in Employment Act, the Americans with Disabilities Act and other labor and employment laws.

Derek regularly provides advice and counsel to employers regarding California and federal employment law, including employee hiring and discipline procedures, unfair competition matters, worker classification issues, leaves of absence, wage and hour law, and employee severance and termination strategies.

Honors

- Recognized for Employment Law, *Best Lawyers, 2021*
- Labor & Employment, *Legal 500, 2012-2014 and 2017-2019*
- Southern California Super Lawyer, *Super Lawyers, 2011-2014*

Experience

Recent Significant Client Wins:

- *Coordinated Union Bank Wage Hour Cases*, Los Angeles County Superior Court, Case No. JCCP4866. Defeated class certification on behalf of Union Bank in class action alleging off-the-clock work, improper rounding and meal and rest period violations, brought on behalf of all non-exempt employees in California. Denial of class

certification was affirmed on appeal.

- *David vs. Queen of the Valley Medical Center*, First District Court of Appeal Case No. A157336; Napa County Superior Court Case No. 26-67321. Prevailed on motion for summary judgment on behalf of Queen of the Valley Medical Center in a putative wage and hour class action alleging off-the-clock work, meal and rest period violations, and improper rounding. Affirmed in full on appeal.
- *Guerrero vs. Whole Foods Market*, Los Angeles County Superior Court, Case No. 19STCV02239. Prevailed on motion for summary judgment on behalf of Whole Foods Market in an age and race discrimination, and wrongful termination case.
- *Willis vs. Driltek*, Ninth Circuit Court of Appeal, Case Nos. 17-17397, 17472; U.S. District Court for the Eastern District of California, Case No. 1:15-cv-00688. Prevailed in the Ninth Circuit Court of Appeal, which affirmed the district court's summary judgment order in a wage and hour class and collective action alleging a joint employer relationship between sub-contractors.
- *Gerard vs. Orange Coast Memorial Medical Center*, Supreme Court of the State of California, Case No. S241655. Prevailed in a unanimous decision in the California Supreme Court, affirming the Court of Appeal ruling that voluntary meal period waivers are permissible for healthcare employees who work shifts of more than 12 hours. Case was fought through California courts for over 10 years, beginning with defeat of class certification in case originally involving meal period, rest period, pay stub, final pay, regular pay and reimbursement violations in 2013. This was the only wage and hour victory for an employer before the California Supreme Court in 2018.
- *Cruz vs. Whole Foods Market*, Los Angeles County Superior Court, Case No. BC592895. Prevailed on motion for summary judgment on behalf of Whole Foods Market in a putative wage and hour class action alleging meal and rest period violations, off-the-clock work, overtime violations, failure to reimburse business expenses, pay stub violations and failure to pay vested vacation, brought on behalf of all non-exempt employees in California.
- *Sumo vs. Torrance Memorial Medical Center*, Los Angeles County Superior Court, Case No. BC530934. Defeated class certification of a putative class action alleging the failure to pay overtime due to invalid alternative work week schedules, and failure to provide meal periods due to invalid waivers.
- *Garcia vs. Whole Foods Market*, Los Angeles County Superior Court, Case No. BC582010. After a six-day jury trial, Whole Foods prevailed with a complete defense verdict in a sex, sexual orientation and racial harassment, failure to prevent harassment and intentional infliction of emotional distress case.
- *Lampe vs. Queen of the Valley Medical Center*, Napa County Superior Court Case No. 26-61568. Defeated class certification of a putative class action alleging various wage/hour violations, including unpaid overtime, meal and rest period violations and pay stub violations, for all non-exempt employees.
- *Payne vs. Whole Foods Market*, Ventura Superior Court Case No. 56-2014-00452544. Prevailed on summary judgment in pregnancy discrimination case.
- *King vs. Pomona Valley Medical Center*, Los Angeles Superior Court Case No. BC351095. Prevailed on summary judgment in a putative class action alleging unpaid overtime on behalf of 12-hour employees.
- *Cherin vs. Dignity Health*, San Francisco Superior Court Case No. CGC-08-471761. Defeated class certification of proposed class of tens of thousand of nurses alleging wage and hour violations.
- *Cunningham vs. Long Beach Memorial*, Los Angeles County Superior Court, Case No. BC421688. Prevailed on summary judgment in a putative class action alleging unpaid overtime on behalf of 12-hour employees.

- *Rivera vs. Whole Foods Market*, Los Angeles County Superior Court, Case No. LC090604. After a week-long jury trial, Whole Foods prevailed with a complete defense verdict in a sexual harassment, retaliation and wrongful termination claim.
- *Leon vs. Union Bank*, Ventura County Superior Court, Case No. 56-2010-00386548. Prevailed on summary judgment in a disability discrimination and retaliation claim.
- *McCoy vs. Saddleback Memorial Medical Center*, Orange County Superior Court, Case No. 30-2008-00116393. Defeated class certification of proposed wage and hour class action, including meal and rest period claims.
- *Union Bank Class Action*, San Francisco County Superior Court, CGC-10-499595. Failure to provide meal and rest periods and overtime violations. Class certification was denied on lack of adequacy and typicality for plaintiff, and partial summary judgment was granted.
- *White vs. Whole Foods Market*, Los Angeles County Superior Court, Case No. BC380974. Two-week jury trial of a pregnancy discrimination and wrongful termination claim. Complete defense verdict.
- *Oberfoell vs. Cedars-Sinai Medical Center*, Los Angeles County Superior Court, Case No. BC332075. Prevailed on motion for summary judgment in proposed wage and hour class action, including overtime and meal and rest period claims.
- *Sullivan vs. Kelly Services, Inc.*, U.S. District Court for the Northern District of California, Case No. C 07-2784. Prevailed on motion for summary judgment in proposed wage and hour class action alleging failure to pay final wages to temporary agency employees at the end of each assignment.
- *Zumbowicz vs. HASC*, Los Angeles County Superior Court, Case No. BC360399. Prevailed on motion for summary judgment on behalf of Memorial Health System in anti-trust class action alleging underlying labor code violations. Affirmed on appeal.
- *Hamilton vs. Long Beach Memorial Medical Center*, Los Angeles County Superior Court, Case No. BC322076. Prevailed on motion for summary judgment in proposed wage and hour class action, including overtime and pay stub claims. Affirmed on appeal.
- *Matlin vs. Tilly's*, Los Angeles County Superior Court, Case No. BC322422. Defeated class certification and prevailed on summary judgment in proposed wage and hour class action, including overtime and meal and rest period claims.
- *McDonnell vs. Whole Foods Market*, Los Angeles County Superior Court, Case No. BC323344. Defeated class certification and prevailed on summary judgment in proposed wage and hour class action, including meal and rest period claims.

Articles

Labor and Employment Law Blog Posts

- "Whistleblower Retaliation Lawsuits Are About to Become More Expensive in California," October 26, 2020

Speaking Engagements

- Speaker, "Extended COVID-19 Furloughs, Layoffs and Other WARN Act Concerns: Avoiding Notice Requirement Pitfalls," National Restaurant Association Webinar, October 6, 2020
- Speaker, "Virtual Happy Hour and Roundtable with Sheppard Mullin," ACC San Francisco Bay Area Food & Beverage Group Webinar, May 28, 2020

- Speaker, "Returning to Work: Your Questions Answered," National Restaurant Association Show Webinar, May 27, 2020
- Speaker, "Navigating COVID-19 Issues: Practical Tips for Your Food Manufacturing Business," Sheppard Mullin Roundtable Webinar, April 30, 2020
- Speaker, "Wage and Hour Issues for Food Companies," CLE International's 3rd Annual Food Law Conference, Denver, Colorado, April 20, 2018

Events

Extended COVID-19 Furloughs, Layoffs and Other WARN Act Concerns: Avoiding Notice Requirement Pitfalls
National Restaurant Association Webinar
10.06.2020

Preparing for a Post-COVID World - What Retailers Need to Get in Place Now
Webinar, 04.23.2020

Podcasts & Webinars

Preparing for a Post-COVID World: What Retailers Need to Get in Place Now
04.23.2020

Practices

Labor and Employment

Employee Benefits/ERISA

Labor and Employment Counseling

Employee Hiring/Discipline/Termination

Harassment Investigation and Training

Wage and Hour Regulations

Labor and Employment Litigation

Employee Privacy and Defamation

Discrimination, Harassment, and Retaliation

Wage and Hour Class Actions

Healthcare

Industries

Financial Services

Food and Beverage

Healthcare

Retail

Education

J.D., UCLA School of Law, 1997

B.A., Georgetown, University, 1994, *magna cum laude*

Admissions

All California courts

U.S. District Court for the Central District of California

U.S. District Court for the Northern District of California

U.S. District Court for the Southern District of California

U.S. Court of Appeals for the Ninth Circuit