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SLG Class Action Survival Guide Series

Wage and Hour claims outpace all other types of workplace litigation. In 2012 alone, settlements of wage and hour cases equaled \$467 million bringing the total since 2007 to about \$2.7 trillion. In class actions, companies paid an average of \$4,800,000 per case.

Nearly every class action lawsuit that SLG has recently seen has included claims for incorrect piece-rate compensation, incorrect nonproductive time compensation, and inaccurate wage statements.

Many, many commentators, consultants, and lawyers are weighing in with their "expertise" on these issues. As always, you can rely on SLG, the steady hand, to continue keeping you informed as these lawsuits evolve and to let you know if the Governor comes to his senses.

Arbitration Agreements

(Part 4 of 5)

What is it?

An arbitration agreement is a contract in which the employer and an employee agree to bring any legal claims they have against one another to final and binding arbitration, rather than filing a lawsuit in court.

What does it mean?

Unlike civil court, where matters are decided by judges and juries, arbitration takes place before an arbitrator who is chosen by the parties. Under the law arbitration agreements containing class action waivers are enforceable in most courts. This means that an employer can compel an employee who signed an enforceable arbitration agreement to litigate **only** his or her own claims before an arbitrator instead of pursuing a class action lawsuit. Arbitration generally tends to be a more favorable forum for the employers.

Counsel to Management:

In order for the arbitration agreement to be enforceable the law requires the agreement to contain several elements, including but not limited to:

- No limitation of remedies or statutes of limitation
- Adequate discovery
- Written arbitration award and judicial review
- Employer must pay for arbitration
- No "unfair surprises"
- The agreement is not unfairly one-sided
- Allow for a neutral arbitrator

According to California case law, arbitration agreements waiving claims under the Private Attorney General Act ("PAGA") are not enforceable, but such waivers have been enforced by the federal courts.

The implementation or the "roll out" of arbitration agreements is as critical as having an enforceable arbitration agreement itself, and is best accomplished with the assistance of counsel. Please contact The Saqui Law Group if you have any questions.

Coming Next: Pick Up Stix Agreements to fight off class actions or individual cases...

