

Montgomery Y. Paek

Shareholder

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Focus Areas

Class Action

Unfair Competition and Trade Secrets

Appellate

Wage and Hour

Overview

Montgomery Paek represents corporations and management in all types of employment litigation including actions involving:

- The Fair Labor Standards Act (FLSA), Nevada minimum wage and overtime, and related wage and hour claims
- Title VII of the Civil Rights Act claims for discrimination, harassment, and retaliation and claims under the Age Discrimination in Employment Act (ADEA)
- Noncompetition covenants, nonsolicitation covenants and confidential information/trade secrets

Montgomery is lead counsel in complex and contentious high stakes employment litigation in class actions and collective actions, injunctions for noncompete and trade secrets, discrimination and harassment, and director and officer liability. In class actions, Montgomery has represented clients in over 50 collective and class actions from inception through successful appeal. In his appellate practice, Montgomery briefed, argued, and obtained a landmark class action decision before the *en banc* Nevada Supreme Court that established the statute of limitations for minimum wage claims in Nevada. *Perry v. Terrible Herbst, Inc.*, 132 Nev. 767, 383 P.3d 257 (2016). He has also been appellate or amicus counsel in over a dozen appeals to the Nevada Supreme Court on multiple issues of first impression in wage and hour class actions including:

- *Martel v. HG Staffing, LLC*, 138 Nev. Adv. Op. 56, 519 P.3d 25 (2022) (prevailed on class action appeal that under NRS 608.018(3)(e)'s plain language, a CBA qualifies for the overtime exemption so long as it provides overtime in a different way or manner than NRS 608.018(1)-(2))

- *MDC Restaurants, LLC v. Eighth Judicial Dist. Court*, 132 Nev. 774, 383 P.3d 262 (2016) (prevailed on class action appeal that under the Minimum Wage Amendment, health benefits need only be offered or made available for the employer to pay the lower-tier minimum wage)
- *Valdez v. Cox Commc'ns Las Vegas*, 130 Nev. 905, 336 P.3d 969 (2014) (prevailed on class action appeal dismissal that when a claim against a party is severed, that claim proceeds separately from the unsevered claims)

In noncompete and trade secrets cases, Montgomery has successfully argued, enforced, and prevented TROs and injunctions in cases involving c-suite executives and direct competitors against all manner of opposing counsel from hometown local firms to national Vault 100 firms. In addition, Montgomery has experience successfully:

- Obtaining decertification, dismissals, and summary judgments of class action and collective action cases in their entirety
- Enjoining and preventing emergency TROs and injunctive relief in relation to employee breaches of confidential information, solicitation, trade secrets, and noncompete agreements as well as in general commercial litigation matters
- Prevailing on summary judgment in Title VII and commercial litigation matters
- Prevailing on appeals and extraordinary writ relief in State and Federal appellate matters including issues of first impression for class actions and wage and hour law.
- Obtaining temporary and extended workplace protective orders on behalf of employers for threats of workplace violence

Montgomery has represented employers before the U.S. Court of Appeals for the Ninth Circuit, the Nevada Supreme Court, the Equal Employment Opportunity Commission (EEOC), the Nevada Equal Rights Commission (NERC), and the Nevada Office of the Labor Commissioner. Additionally, he has represented clients in SOX whistleblowing actions before the Occupational Safety & Health Administration (OSHA), the Office of Administrative Law Judges (OALJ) at the Department of Labor (DOL), and in federal court.

Montgomery serves as the hiring shareholder for Littler's Nevada offices. He has been a mentor in Littler's SOAR (formerly Investment for Success) program as well as a mentor in the State Bar of Nevada's TIP (Transitioning Into Practice) program. Montgomery has also served as the founding editor-in-chief for the Labor and Employment Law Section Newsletter of the State Bar of Nevada. Prior to joining Littler, he worked as a commercial litigator for a regional law firm.

Professional and Community Affiliations

- Membership Chair, Labor and Employment Law Section, State Bar of Nevada, 2013-2014
- Member, Federal Bar Association
- President and Co-Founder, Asian Pacific American Law Student Association (APALSA), University of Nevada, Las Vegas William S. Boyd School of Law, 2004-2005
- Member, Asian Bar Association of Las Vegas
- Member, Clark County Bar Association

Recognition

- Fellow, *Litigation Counsel of America*
- Awarded, AV Preeminent® Peer Review Rating, *Martindale-Hubbell*
- Named, Rising Star, Mountain States, *Super Lawyers*, 2012-2016
- Named, Legal Elite, Top Southern Nevada Attorneys, *Nevada Business Magazine*, 2016
- Named, Top Lawyers, *Desert Companion*, 2014

Education

J.D., University of Nevada, Las Vegas William S. Boyd School of Law, 2006

B.A., University of Nevada, Las Vegas, 1999

Bar Admissions

Nevada

Courts

U.S. Supreme Court

U.S. Court of Appeals, 9th Circuit

U.S. District Court, District of Nevada

Publications & Press

Four Wage and Hour Takeaways for Employers Following Recent Nevada Supreme Court Decision

Littler ASAP

August 26, 2022

Employment Law Class Actions in Nevada

Clark County Bar Association

February 4, 2022

En Banc Nevada Supreme Court Clarifies State Record-Keeping and Minimum Wage Notice Requirements

Littler ASAP

January 21, 2022

Nevada Modifies Statute Governing Noncompetition Agreements

Littler ASAP

June 4, 2021

Nevada Supreme Court Rules Courts May Blue-Pencil Unreasonable Noncompetition Agreements if the Agreement Includes Modification Provision

Littler ASAP

January 11, 2021

The Competition over Revising and Enforcing Noncompete Agreements in Nevada

Littler Insight

June 19, 2019

Littler Elevates 28 Attorneys to Shareholder

Littler Press Release

January 3, 2018

Court Reaffirms Decision on Minimum Wage Claims

Las Vegas Sun

November 23, 2016

HP Atty Didn't Puff Up Work History, Court Finds

Law360

June 10, 2016

In Las Vegas, Korean Basketball League's Draft Promises Money and Culture Shock

New York Times

July 24, 2015

Speaking Engagements

2024 Nevada Regional Employer Conference

Las Vegas, NV

October 16, 2024

Employment Law Class Actions in Nevada

Clark County Bar CLE

February 8, 2022

The Next Noncompete Reboot

Nevada Virtual Regional Employer Conference

September 14, 2021

COVID-19 FAQs with the Nevada Labor Commissioner

March 25, 2020

Employment Agreements From A to Z - Executive, Non-Compete, Arbitration Agreements, and More!

Nevada Employer Conferences, Las Vegas and Reno

September 12-13, 2018

Noncompetes and Trade Secret Protection: A Nevada Employer's Guide to Safeguarding Your Company's Business

March 1, 2017

Recent Landmark Decisions Impacting Nevada Employers Paying the Minimum Wage: What's Been Decided, How it Impacts You and How You Can Prepare

November 29, 2016

Nevada Wage & Hour: The Hot Topics

Littler Mendelson, Las Vegas, NV

February 24, 2015

Trend Spotting: 2011 Employment Update

Las Vegas, NV

June 23, 2011

Emerging EEO Challenges in the Coming Decade

Nevada Employer Conference - Littler Mendelson, Las Vegas, NV

November 2010