



## COVID-19 Related Workplace Litigation Picks Up Steam

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For the past few months, the Barnes & Thornburg Wage & Hour Practice Group has been tracking and cataloging workplace litigation related to the COVID-19 pandemic and its economic effects. Our [COVID-19 Related Workplace Litigation Tracker](#) is updated twice each week. We have seen a number of interesting trends in the last two months, including the proliferation of COVID-19 retaliation and discrimination claims, and the relative dearth of WARN Act cases (at least so far). But one of the more interesting trends is that the COVID-19 pandemic appears to have acted as an accelerant for run-of-the-mill wage and hour cases. You will see on our tracker a number of cases where wage and hour claims appear to be “tacked on” to a complaint alleging facts largely related to the COVID-19 pandemic.

Earlier this week, we posted a case emblematic of this trend. In [Lange v. 24-Hour Medical Staffing Services LLC](#), the plaintiff, a “traveling nurse,” filed a class action complaint against the defendant employer, a medical staffing company, asserting sundry violations of the California Labor Code as well as claims for unfair competition and unlawful business practices. In particular, the plaintiff alleges that although she worked directly with COVID-19 patients, the defendant employer did not provide her with appropriate personal protective equipment (PPE).

While the factual allegations consist largely of general COVID-19 facts and statistics, the claims alleged are primarily California wage and hour violations, including failure to pay overtime wages, failure to provide meal and rest

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breaks, failure to provide accurate wage statements, and failure to pay wages owed at termination – entirely independent of the COVID-19 pandemic. The complaint then appears to shoehorn the COVID-19 allegations into an unfair competition and unlawful business practices claim under the California Business and Professions Code, by claiming that the defendant failed to provide employees with PPE necessary for a safe workplace in light of the COVID-19 pandemic.

We expect this trend to continue as enterprising plaintiffs' counsel get clients in the door with COVID-19 related bias, discrimination, and retaliation claims, only to supplement these claims with technical wage and hour violations. Our group will be presenting on this and other trends in a webinar on July 1, 2020: [What's Going On? Lessons From Current COVID-19 Workplace Litigation Trends](#). We will continue to track these trends as they unfold, and will continue to update the tracker each week. Stay tuned.