



## Tyler M. Paetkau, Partner

Practice Areas	Labor and Employment Law Class Actions Appellate Law Services Litigation, Corporate and Commercial Software Trade Secrets
Admissions	California U.S. District Court, Southern District of California U.S. District Court, Northern District of California U.S. District Court, Central District of California U.S. District Court, Eastern District of California Supreme Court of the United States U.S. Court of Appeals for the Ninth Circuit
Languages	French
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### Professional Summary

Tyler M. Paetkau has represented employers in labor and employment law matters for more than 25 years. He has handled numerous litigation cases and has extensive employment counseling experience. Tyler's areas of practice include defending employers against claims of wrongful termination, discrimination, retaliation, sexual harassment, defamation, wage and hour violations, unpaid commissions, collective and class actions, and unfair labor practice charges. Tyler also represents employers in litigation involving unfair competition, misappropriation of trade secrets, restrictive



covenants, and employee mobility issues. He also has extensive experience representing employers in union-management labor relations matters, including union organizing campaigns, strikes, and collective bargaining negotiations.

## Representative Matters

- Represented multinational employer in defeating union organizing campaign.
- *Reis Robotics (China) Co. v. MiaSolé, Inc.*, 2017 U.S. Dist. LEXIS 49804 (N.D. Cal. 2017): Represented client in successfully moving to compel arbitration of \$13 million claims in a commercial dispute.
- *Lourdes Tiri v. Lucky Chances, Inc.*, 226 Cal. App. 4th 231 (2014): Reversing trial court's order denying client's motion to compel arbitration of employee's discrimination claims.
- Complete defense judgment after trial of certified class action alleging misappropriation of employee tips.
- Complete defense judgment after trial of misappropriation of trade secrets and unfair competition claims.
- *Frank Gattuso v. Harte-Hanks Shoppers, Inc.*, 42 Cal. 4th 554 169 P. 3d 889, 67 Cal. Rptr. 3d 468, 55 Lab.Cas. 60,511 (2007): Represented the Employers Group as amicus curiae; Supreme Court of California endorsed "lump sum" method of reimbursing employee expenses.
- *Stephen Simmons v. PCR Technology*, 209 F. Supp. 2d 1029 (C.D. Cal. 2002): Represented employer in race discrimination action; removal to federal court based on diversity of citizenship and amount in controversy upheld.
- *Mirna Olivares v. Hispanic Broadcasting Corporation*, 2001 WL 477171 (C.D. Cal. April 26, 2001): Represented employer in defeating former employees challenge to mandatory arbitration of employment discrimination claims.
- Successfully obtained summary judgment and early dismissal of numerous employment claims against employer-clients, including discrimination, retaliation and harassment.

## CLIENT TESTIMONIAL

"One of the things I value about Procopio is its wide range of legal expertise. While I've appreciated the



responsive, practical entity and contract drafting work and military subcontract expertise provided by the firm's Business Team, I was grateful when Tyler Paetkau and the firm's Labor and Employment team stepped in on short notice and solved a particularly thorny labor and employment challenge for us. Procopio is a firm I can count on to get the job done in a timely and effective manner, no matter the ask."  
– Patrick "Paddy" Gough, Chief Operating Officer, PKL Services, Inc.

## Recognitions

- 2019 West Coast Top Rated Lawyers, ALM
- AV® Preeminent™ Peer Review Rated by Martindale-Hubbell®
- Northern California "Super Lawyer" in labor and employment law, 2004, 2006-2007, 2009-2019

## Community

- American Bar Association, Labor and Employment Law Section
- Bar Association of San Francisco, Labor and Employment Law Section
- Santa Clara County Bar Association, Labor and Employment Law Section, Executive Committee, Past Chair
- San Mateo County, Labor and Employment Law Section
- State Bar of California, Labor and Employment Law Section, Executive Committee, Past Chair and Advisor
- State Bar of California, Special Advisory Committee on Jury Instructions for Employment Law Cases, Former Member

## Education

- JD, University of Michigan Law School, *cum laude*
- BA, University of Michigan, High Honors and High Distinction

## News Coverage

- Vin Gurrieri. "Ex-Insight Global Employee's Suit Over Firing Remains Intact," Law360, December 6, 2018.



- Vin Gurrieri. "NLRB Won't Rethink Anti-Picket Ruling Against Janitors," *Law360*, November 1, 2018.
- "On the Move," *Los Angeles Daily Journal*, May 22, 2017.

## Seminars

- Speaker. "The State of the State on Employer Data Protection: Trade Secrets, Restrictive Covenants, Cyber Security and Data Privacy," The Bar Association of San Francisco, September 5, 2019.
- Presenter. "California Courts Cast Considerable Doubt on Continued Use of 'Independent Contractors,'" Celesq® Online Program, September 3, 2019.
- Speaker. "Tips and Trends in Trade Secrets Law: DTS Act," SCCBA Federal Courts Committee – MCLE Seminar, San Jose, June 27, 2019.
- Co-panelist. "Trends in International Executive Employment Agreements including Compensation and Equity Issues and Restrictive Covenants," International Labor and Employment Law Committee Midyear Meeting, Buenos Aires, Argentina, May 8, 2019.

## Publications

- "[New California Independent Contractor Test Applies Retroactively According to the Ninth Circuit](#)" May 7, 2019.
- "[Employers and Employees: Covenants Not to Compete](#)," *California Business Law Reporter*, Vol. 40, No. 4, January 2019.
- "[Employers Beware: Using Employee Non-Solicitation Clauses May Violate California Law](#)," November 29, 2018.
- "[Managing the Legal Risks Inherent in BYOD to Work Policies](#)," *California Labor & Employment Law Review*, California Lawyers Association Labor & Employment Bar Section, Vol. 32, No. 4, July 2018.
- "[The Slow But Almost Certain Demise of Nonsolicitation of Employees Covenants Under California Law \(Part 2\)](#)," *California Business Law Reporter*, May 2018.
- "The Slow But Almost Certain Demise of Nonsolicitation of Employees Covenants Under California Law," *California Business Law Reporter*, November 2017.

- Contributing editor of several employment law publications, including *Bender's California Labor & Employment Bulletin* (LexisNexis Matthew Bender); *California Labor and Employment Law Review* (official publication of the State Bar of California Labor and Employment Law Section); *California Business Law Reporter* (California Continuing Education of the Bar); and co-editor of the ABA Labor and Employment Law Section of the International Labor Law Committee e-newsletter .
- "Employers and Employees," *California Business Law Reporter*, September 2017.
- "'Inevitable Disclosure' of Trade Secrets," *Los Angeles Daily Journal*, July 13, 2017.
- "[The Equal Pay Act, Pay Differentials, and Gender](#)," May 23, 2017.
- "Yes, California Employers, It Really Is Time to Update Your NDAs," CEB Employment Law blog, March 20, 2017.
- "Accommodating Religious Dress and Observances in the Workplace (Considerations Raised by *EEOC v. Abercrombie & Fitch*)," *California Labor and Employment Law Review*, (State Bar of California Labor and Employment Law Section), Vol. 29, No. 3, May 2015.
- "Covenants Not to Compete With Independent Contractors May Not Be Enforceable Under California Law," *Bender's California Labor & Employment Law Bulletin*, (LexisNexis Matthew Bender), Vol. 2014, No. 4, April 2014.
- Co-author. "Goodbye Armendariz, Hello Concepcion: Federal Arbitration Act Preemption of State Law Obstacles to Enforcement of Mandatory Employment Arbitration Agreements," *California Labor and Employment Law Review*, (State Bar of California Labor and Employment Law Section), Vol. 26, No. 6, November 2012.
- "Silicon Valley Giants Victims of their Own Success: DOJ Claims Otherwise Lawful 'No Cold Calling' Agreements Among Tech Heavyweights Violate the Sherman Antitrust Act," *Bender's California Labor & Employment Bulletin* (LexisNexis Matthew Bender), Vol. 2011, No. 1, January 2011.
- "The Case for 'Garden Leave' in California," *Bender's California Labor & Employment Bulletin* (LexisNexis Matthew Bender), Vol. 2009, No. 9, September 2009.
- "[When Does a Foreign Law Compel a U.S. Employer to Discriminate Against U.S. Expatriates?](#): A Modest Proposal for Reform," March 2009.
- Co-author. Switzerland Chapter, *International Labor & Employment Laws*, Third Edition, Vol. IIA (ABA BNA 2008).
- "When Can an Employer Conclude That a Disabled Employee On an Indefinite Leave of Absence



Cannot Perform The Job's Essential Functions? A Cautionary Tale," *California Labor & Employment Law Review* (State Bar of California Labor and Employment Law Section), March 2009.

- Co-author. "Shield and Sword: Recovery of Attorneys Fees in Trade Secret Misappropriation Litigation," *Bender's California Labor & Employment Bulletin* (LexisNexis Matthew Bender), 352, September 2008.
- Co-author. "California's Statutory Exceptions To Restraints On Trade: Open Competition And Employee Mobility Give Way To Buyers and Sellers Of Businesses," *Bender's California Labor & Employment Bulletin*, January 17, 2008.