



Employment Law Overview

How the Law Protects Employees

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Knowledge is Power

“Ignorance of the Law Excuses No One”

The attorneys at **The Green Law Group, LLP** practice primarily in the areas of **construction**, **business**, **employment** and **real estate** law.

Please send your questions regarding this presentation to Scott Green at scott@thegreenlawgroup.com

About The Green Law Group, LLP

When legal disputes can't be avoided the attorneys and staff at The Green Law Group listen carefully to our clients to ensure that we understand their needs and concerns so that we can work with them to achieve their goals. We also encourage our clients to ask questions and stay fully engaged in the handling of their case until the matter is resolved because we know that the successful resolution of any legal dispute requires close cooperation and team work with our clients.

About Our Attorneys



Scott Green, Managing Partner

Scott is the founder and managing partner of The Green Law Group, LLP, the founder and CEO of Easy Law Construction Notices, a former member of the Board of Directors for the Tri-County District of the Associated General Contractors of California, the past president of the Moorpark Chamber of Commerce, a member of the Advisory Board for the Boys and Girls Club of Moorpark, a member of the Ventura County Contractors Association and a member of the Los Angeles and Ventura County Bar Associations. Scott received his Juris Doctor degree in 1978 from the University of San Diego School of Law after attending four years of night classes and working in construction during the day. In 1979, Scott formed Hared Construction Company, Inc., a general contracting and painting company and worked there until 1988 as a field superintendent, office manager, corporate officer, and in-house counsel.

In 1985, Scott founded Easy Law, Inc. to help contractors and others in the construction industry **secure and collect what they earn**. Today, Easy Law is a national construction notice document preparation firm, (see www.easylawinc.com), providing preliminary notices, mechanics liens, stop payment notices, payment bond claims and other construction collection services to contractors, material suppliers, and construction professionals throughout the U.S.

Scott can be contacted by phone at (805) 306-1100 extension 114 and via email at Scott@thegreenlawgroup.com



About Our Attorneys



Stephen M. Sanders

Stephen M. Sanders, P.C., Partner

Stephen has over 25 years of experience working in various capacities in the real estate industry. Before becoming an attorney, Stephen learned construction trades and real estate development in various family businesses and later became a residential and commercial construction manager working for private developers. Stephen is an ICC/ICBO Certified Residential Building and Electrical Inspector and a Construction Specifications Institute Certified Document Technician, familiar with AGC, Consensus and AIA trade documents and best project management practices for the construction industry. Stephen has managed construction projects ranging from simple residential remodels, new homes and structures, tenant improvements, to commercial projects with budgets up to 3 million dollars. Stephen is a California licensed general contractor (Lic. No. 931942) and real estate broker (Lic. No. 1863495).

Stephen specializes in business litigation, real estate development and construction law, and also practices in employment, and intellectual property law. Stephen is an accomplished university and Musician's Institute trained drummer and percussionist and a past member of the Calabasas Chapter of Rotary International.

Stephen can be contacted by phone at (805) 306-1100, extension 128 and via email at Stephen@thegreenlawgroup.com.

About Our Attorneys



Daniel J. Spurgeon, Senior Associate

Dan Spurgeon was admitted to practice law in California in 2009. Dan represents clients in business litigation, construction disputes, breach of contract cases, real estate disputes, regulatory and licensing compliance with the California State License Board, government contracting proposals, pre-market product reviews, and building accessibility disputes; including pre-filing negotiation, law and motion, and alternative dispute resolution. Dan also practices employment law, including wrongful termination, prevailing wage disputes, and wage and hour cases. Dan is admitted to practice in all California State courts and in the federal Central District of California. He was previously admitted *pro hac vice* to the State Bar of Oklahoma during a complex multi-jurisdiction business case. Dan graduated in the top-third of his 2009 Southwestern Law School class, and earned his master's degree in project management from the Keller School of Management in 2013.

Dan resides in Simi Valley, is a retired commissioned officer in the Air Force Reserve and has developed operations management experience in multiple fields while deployed to multiple global conflict areas. Dan is a member of the Ventura County Bar Association.

Dan can be contacted by phone at (805) 306-1100, extension 124 and via email at Daniel@thegreenlawgroup.com

About Our Attorneys



Jeff G. Coyner, Senior Associate

Jeff Coyner was admitted to practice law in California in 2004. Jeff was born and raised in Ventura. He graduated from the University of California, Davis with Bachelors of Science in Environmental Toxicology while competing as an all-conference decathlete for the Track and Field team. After graduating from Davis, Jeff worked for 9 years for Exxon and Valero Refining in environmental compliance. Jeff attended the Golden Gate University College of Law as a night student while working full time for Valero Refining. He graduated with Highest Honors and served as an associate editor for law review.

Jeff has represented businesses, governmental entities and individuals in a wide variety of matters including: real estate loan and personal guarantee disputes; real estate misrepresentation; construction defect; CERCLA environmental cost recover actions; environmental regulatory matters, insurance coverage; business litigation; and debt recover matters. He has experience litigating large scale environmental exposure and mass tort actions in both federal and state court.

Jeff lives in Ventura with his wife and three children. Jeff enjoys participating in dog agility and occasionally teaches weekend classes in the sport with his wife who is a professional dog trainer. Jeff is a member of the Ventura County Bar Association.

Jeff can be contacted by phone at (805) 306-1100, extension 127 and via email at Jeff@thegreenlawgroup.com



About Our Attorneys



Jamie N. Stein, Senior Associate

Jamie Stein was admitted to practice in California in 2002, and currently practices in both state court and in the Central District of California's federal court. Jamie is a civil litigator with extensive experience in providing complex legal representation in diverse areas, including a wide array of disputes related to commercial and residential real estate, as well as professional negligence and fraud claims. Jamie's high degree of personal and professional integrity, combined with excellent research and writing skills, lead to a high level of success in winning cases on summary judgment, or by way of dismissal based upon procedural and substantive arguments.

Jamie received her Bachelor of Arts degree from the University of California at Santa Barbara in 1998; and subsequently graduated in the top 30% of her class from Southwestern University School of Law, where her academic achievements placed her on the Dean's List and earned her the CALI Award in Excellence. While at Southwestern, Jamie also enjoyed her membership in the Interscholastic Trial Advocacy Program (ITAP), learning effective courtroom presence and persuasive argumentative techniques. Currently, Jamie is a member of the American Bar Association, the California Bar Association (Real Property Section), and the Los Angeles County Bar Association. Formerly, she was a member of both the American and California Escrow Associations.

In her time outside of the office, Jamie enjoys outdoor adventures with her two sons and the family dog.

Jamie can be contacted by phone at (805) 306-1100, extension 129 and via email at Jamie@thegreenlawgroup.com

About Our Attorneys



Lauren Cox, Associate

Lauren Cox was born and raised in Colorado where she earned her B.S. from the University of Colorado in 2005 in International Affairs with a focus on political science. As a young professional, Lauren served in the Colorado Governor's Office of Information Technology for six years where she gained extensive experience in business process management and strategy development, and managed multiple initiatives focused on organizational transformation and the implementation of innovative technology solutions for the state until she left her position as the Director of Business Architecture to attend law school in California.

In just two and one half years, Lauren graduated from Southwestern Law School in the top third of her class. During law school, Lauren became a Dispute Resolution Program Act (DRPA) certified mediator and clerked for the Los Angeles District Attorney's Office and the Los Angeles Children's Court, where she gained experience making court appearances and performing client advocacy and case management. Upon graduation, Lauren received distinguished recognition for her service and dedication to providing pro bono public legal services while in law school. At the Green Law Group, Lauren's primary area of practice is in construction law, where she represents clients in business contexts including breach of contract litigation, regulatory compliance and licensing for contractors, as well as disputes stemming from construction defect claims and the enforcement of mechanics liens and stop payment notices. Lauren is admitted to practice in all California State courts and in the federal Central District of California.

Lauren resides in Simi Valley with her husband and three children. Outside the practice of law, Lauren enjoys watching her son's soccer games, daughter's gymnastics, and getting outdoors with her family. Previously, Lauren was a certified foster parent, and now serves as a volunteer for a non-profit that provides mentoring to teenage youth in the San Fernando Valley who are transitioning from foster care to independent living.

Lauren can be contacted by phone at (805) 306-1100, extension 118 and via email at Lauren@thegreenlawgroup.com.



About Our Staff



Patricia Green, Administrator and Certified Paralegal

Pat started her career as a bank teller with a large national bank and moved up the ranks into management, with extensive training in Operations, Lending and Human Resources Management, earning a certificate from UCLA in Business and Finance. At one time Pat was in charge of the bank's California Employment Division with over 300 employees. She subsequently worked as an HR consultant for various departments in the same bank before assuming her last position managing a banking office where she met Scott Green and the rest is history.

After Pat married Scott and had their first child, she joined Scott's new law firm and together with him, grew the firm to 8 attorneys, 6 paralegals and 3 staff support. Pat has helped move the firm forward implementing technological advances, setting policies and procedures and training staff as well as the performing the accounting, payroll and billing for the firm.

While expecting their second child, Pat attended La Verne University's paralegal program, earning a paralegal certificate.

Pat has been the firm's Administrator and HR Manager from the start and, as a paralegal, she works with clients assisting them with their HR needs, from hiring packets, preparing employee handbooks and answering a variety of HR related questions that include wage and hour, leaves of absence and many other topics that are of utmost importance to employers in complying with the many laws that affect their businesses.

Pat and Scott have two grown daughters, one living in New York City and the other one in San Diego. They both enjoy spending family time together, going to the movies and going to Dodger games.

About Our Staff

Michele West, Certified Paralegal



What began as a part-time receptionist position at a San Fernando Valley law office in 1984, has transcended into a life-long, fulfilling career in the legal field. Michele's experience includes serving as paralegal and office manager to the Assistant City Attorney of Simi Valley as well as Treasurer of the Board of Directors for a local non-profit. She was instrumental in the growth and success of a sole practitioner firm that grew to become one of the most successful insurance subrogation law offices in Southern California. Her extensive legal experience includes the following practice areas: construction, transaction, corporate, probate, and insurance subrogation and defense.

Michele began working with The Green Law Group in March of 2014 where she currently serves as lead paralegal and support staff supervisor.

A long-time resident of Simi Valley, Michele resides with her husband of 28 years and their two sons. In her spare time, Michele enjoys kayaking, baking and volunteering in the community.

Michele can be contacted by phone at (805)306-1100, extension 112 and via email at Michele@thegreenlawgroup.com



About Our Staff



Cindy Slotnick, Certified Paralegal

Cindy joined The Green Law Group in 2015 as a certified paralegal, working in the employment and construction litigation departments. She began her legal career in 1981 while attending UCLA, in hopes of becoming an attorney. Cindy has been employed in the legal field for more than 35 years ranging from an administrator, branch administrator, certified paralegal and legal assistant. Generally, her expertise is litigation; however, she has a wide breadth of experience in the following practice areas: real estate litigation and transaction, corporate securities, entertainment and bankruptcy. For the past 20 years, while dedicating the majority of her time to her three children, Cindy continued to work as a contract paralegal preparing large cases for jury trials.

Cindy obtained a Bachelor of Science degree in Management, from the University of Redlands, where she graduated *summa cum laude* (3.98) in 1987, receiving distinction for her thesis "*Stress in the Workplace*" and an Associate of Arts degree, with honors, in Business Administration. Cindy earned two certificates from UCLA in Catering and Hotel/Restaurant Management, which only helped to enhance her company, *Legal Events*, which provided event planning and catering services to law firms on the Westside of Los Angeles. Cindy enjoys time with her family and friends, loves the beach, plays tennis, and is an avid reader.

Cindy can be contacted by phone at (805)306-1100, extension 120 and via email at Cindy@thegreenlawgroup.com



About Our Staff



Timothy J. Blau, Legal Assistant and Certified Paralegal

Tim began at The Green Law Group in the summer of 2015 as support for the firm's two seasoned paralegals. Today, as a paralegal himself, he provides legal and administrative support for the entire office.

Native to Simi Valley, Tim ventured south to San Diego to earn his Bachelor's degree in Political Science with an emphasis in Political Theory from UC San Diego. After returning home, Tim decided to increase his practical knowledge by earning a paralegal certificate from UCLA Extension.

Outside the office, Tim enjoys a vast social life and practices self-improvement in the forms of fitness, practical education, and is currently studying to take the LSAT.

Tim can be contacted by phone at (805)306-1100, extension 119 and via email at Tim@thegreenlawgroup.com



About Our Staff



Cindy Beller, Administrative Assistant and Certified Paralegal

The Green Law Group welcomed Cindy in the Summer 2016 as the firm's administrative assistant. While Cindy is a certified paralegal with a 16 year background in the legal field, it is her unique experience as the Assistant to the Mayor of Ojai, California that brings unparalleled administrative expertise to the firm.

Cindy, an Ojai native, began working for Mayor Paul Blatz, in 2004, as a legal secretary. As his interest in politics came to fruition, Cindy was there by his side, planning, managing and executing three successful mayoral campaigns; while continuing to run his law practice.

While attending Ventura Community College, Cindy's broad scope of classes; Anthropology, American Sign Language, Accounting and Women's History, just to name a few, only enhances her administrative and management skills.

As a newlywed and new resident of Simi Valley, Cindy enjoys time with her husband David, boating, golfing and traveling.

Cindy B. can be contacted by phone at (805)306-1100, extension 130 and via email at Cindyb@thegreenlawgroup.com



About Our Staff



Megan Anderson, Marketing and Administrative Assistant

Megan recently joined the staff at The Green Law Group in the spring of 2017. She works to provide administrative support to the paralegals, and marketing for the company, among other reception tasks.

Megan was born, raised and lived in Moorpark, until she moved to Seattle, after high school. She studied Sociology at the University of Washington and graduated in June 2014. Shortly after graduating, she moved back to sunny California. Megan has been pursuing many different avenues in hopes of figuring out her passion in the workforce. She has served as a Site Director and an Assistant Summer Camp Director at the Conejo Valley YMCA, and the Director of Youth Ministries at a local church. Megan is grateful for this opportunity and is happy to be learning. She is looking forward to seeing what the future has in store.

In her free time, Megan enjoys going to fitness boot-camp classes, playing in sports leagues, including dodgeball, kickball and softball. She also enjoys being with her family, volunteering and reading.

Megan can be contacted by phone at (805)306-1100, extension 125 and via email at Megan@thegreenlawgroup.com

Introduction

How the Law Protects Employees

The Fair Labor Standards Act (FLSA) and several California state laws govern the rights of employees to fair wages and working conditions. Employers who cut corners and disregard these rights can be held legally accountable by employees.

This presentation aims to inform employees of these rights, provide them with the knowledge necessary to know when a right has been violated and explain available remedies.

Basic Employee Rights

- ❑ Wage and Hour Rights
 - ❑ Minimum hourly wage
 - ❑ Overtime pay for overtime work
 - ❑ Paid and unpaid medical leave.
 - ❑ Meal and rest breaks
- ❑ Freedom from discrimination
- ❑ Freedom from retaliation
- ❑ Other rights and privileges
 - ❑ Itemized Statement
 - ❑ Restriction on background and credit checks
 - ❑ Limited control

Minimum Wage

- ❑ Wage requirements in California distinguish between large employers and small employers. A large employer is one with more than 25 employees, and a small employer is one with 25 or less.
- ❑ As of January 1, 2017 minimum wage for large employers increased to \$10.50 per hour and for small employers \$10 per hour.
- ❑ L.A. City and County, effective July 1, 2017 the minimum wage will be \$12 an hour for large employers and \$10.50 for small employers.

Minimum Wage (Contd.)

All employees have a right to be paid at least minimum wage; even those who rely on tips or perform piece rate labor, and are paid per product produced.

Exempt Employees

Both Federal and California law distinguish between employees that are exempt from certain overtime and meal/rest-break requirements, and employees that are non-exempt.

Exceptions that make an employee exempt are:

- Administrative Positions
- Executive Positions
- Professional Positions

Exempt Employees (Contd.)

Most employees are non-exempt and the biggest mistake an employer makes that leads to violations of an employee's right to overtime compensation is to misclassify the employee as exempt.

California laws are even more demanding of employers than federal laws, and even large national companies may inadvertently violate the rights of their employees in California.

Exempt Employees (Contd.)

An employee may be exempt if they are primarily engaged in the following types of duties:

- ❑ interviewing, selecting and training employees;
- ❑ setting and adjusting their rates of pay and hours of work;
- ❑ planning and directing their work, determining the techniques they use and apportioning work among themselves;
- ❑ controlling the flow and distribution of materials or merchandise and supplies;
- ❑ maintaining production or sales records for use in supervision or control;
- ❑ appraising employees' productivity and efficiency for the purpose of recommending promotions or other changes in status;
- ❑ handling employee complaints and grievances;
- ❑ disciplining employees;
- ❑ providing for the safety and security of the employees or the property;
- ❑ planning and controlling the budget; and
- ❑ monitoring or implementing legal compliance measures.

Exempt Employees (Contd.)

Even if an employee performs the tasks on the previous slide, they will not be considered exempt unless they also:

- ❑ Spend at least half of their working hours performing such duties;
- ❑ Customarily and regularly exercise **discretion and independent judgment** in performing those duties, and;
- ❑ Earn at least two times minimum wage.

Exempt Employees (Contd.)

Another common mistake employers make that violates an employee's rights is to misclassify the employee as an independent contractor instead of as an employee.

The presumption is that a person is an employee and not an independent contractor unless the person:

- ❑ Has independent control over the manner in which the work is performed; and
- ❑ Is a bona fide independent contractor and has any required license in order to perform work as an independent contractor; and
- ❑ Is customarily engaged in an independently established business.

Overtime Compensation

Therefore, if an employee is considered non-exempt they have the right to be compensated at a higher rate for overtime work.

- ❑ One and one half times their normal rate for:
 - ❑ Any time worked beyond 8 hours in a single work day.
 - ❑ Any time worked beyond 40 hours in a work week.
 - ❑ The first 8 hours of the seventh work day worked in a work week.
- ❑ Two times their normal rate for:
 - ❑ Any time beyond 12 hours worked in a single work day.
 - ❑ Any time beyond 8 hours worked on the seventh day worked in a work week.

Paid Sick Leave

- ❑ An employer must provide one hour of payable sick leave for every 30 hours worked.
 - ❑ Or, the employer can provide 24 hours (or 3 days) of sick leave per year, all of which must be available for the employee to use by the 120th day of the year.
 - ❑ In LA City, and County, the rate is also one hour for every 30 worked, or 48 hours (or 6 days) per year.
- ❑ An employee is allowed to use their sick leave after they have worked for the employer for 90 days.

Paid Sick Leave (Contd.)

- ❑ An employer can satisfy the requirement to provide sick leave by providing at least as many hours through some other paid time off program, so long as the hours can be used for disability leave.
- ❑ Sick leave can carry over from year to year, but can be capped at 48 hours (6 days) of accrual.
 - ❑ Or, can be capped at 24 hours (3 days) if they are available immediately at the beginning of the year.
- ❑ At least half of an employee's usable sick leave can be used to care for a family member who is sick.

Unpaid Leave

The Family Medical Leave Act (FMLA), requires an employer to provide up to twelve weeks of unpaid leave to an employee with a qualifying medical condition that prevents them from working for an extended period of time.

The employee must provide the employer notice of leave taken under FMLA, and supporting documentation from a physician.

The employer must make the employee's job available to them when they are able to return to work. The FMLA also covers maternity leave.

Unpaid Leave (Contd.)

Child in School or Daycare

- ❑ An employee has the right to take time off if they provide their employer with notice that they are required to attend a child's school in relation to a suspension of that student.
- ❑ A large employer (over 25 employees) must allow an employee who gives notice to take up to 40 hours per year of time off work in order to enroll a child in school, or participate in school activities.

Unpaid Leave (Contd.)

Victim of a Crime

- ❑ An employee of a large employer (over 25 employees) has the right to take time off in order to seek medical care, psychological counseling, or other services in relation to their recovery from being a victim of domestic violence, sexual assault, or stalking.
- ❑ An employee of any employer also has the right to take time off work to appear in any proceeding against the perpetrator of certain crimes against them, when the rights of the victim are at issue in the proceeding.

Meal Breaks

- ❑ Any employee who works more than 5 hours in a day is entitled to take a meal break of at least 30 minutes before the beginning of the 6th hour of work.
 - ❑ During the meal break, the employer shall not exercise any control over the employee.
 - ❑ If the employee does not work more than 6 hours in a day, the employee can decide not to take a meal break, by mutual agreement with the employer.
- ❑ If the employee works more than 10 hours in a day, they are entitled to a second meal break.
 - ❑ If the employee does not work more than twelve hours, they can elect not to take the second meal break, by mutual agreement with the employer.

Rest Breaks

- ❑ Employees are entitled to one 10 minute rest period for every four hours, or greater portion of 4 hours worked in a day.
 - ❑ There is an exception if the employee works no more than 3.5 hours in a day.
- ❑ This means, two 10 minute rest breaks in an 8 hour day.
- ❑ The rest period is to be counted as hours worked and must be paid.
- ❑ The rest break should be taken towards the middle of each 4 hour work period.

Freedom from Discrimination

An employer cannot discriminate in hiring, disciplining, terminating, or paying an employee equal wages on the basis of:

- Sex
- Race
- Ethnicity
- Age
- Religion

Nor can an employer discriminate against any employee on the basis of membership in some other protected class of individuals.

Freedom from Retaliation

An employer is prohibited from retaliating against an employee who brings a claim or mentions the possibility of bringing a claim against an employer for violating any of the provisions of the labor code.

Other Rights and Privileges

Itemized Statement

An employer must provide the employee - at least every pay period - with an itemized statement containing the following:

- ❑ Gross wages earned
- ❑ Total hours worked by the employee
- ❑ All deductions from wages
- ❑ Net wages earned
- ❑ Dates of the pay period
- ❑ The name of the employee and only the last four digits of his or her social security number or an employee ID number
- ❑ The name and address of the employer
- ❑ Applicable hourly rates, and number of hours worked

An employer must make past statements available to current and former employees.

Other Rights and Privileges

Background Checks

- ❑ An employer cannot perform a criminal background check on an applicant for employment unless they first make a contingent offer of employment and obtain written permission to perform a criminal background check.
- ❑ The background check can only be used if the employer has a legitimate reason to deny employment to perpetrators of certain crimes.

Other Rights and Privileges

Consumer Credit Checks

- ❑ An employer cannot use a consumer credit report for employment purposes unless the employee falls under certain specific exceptions including:
 - ❑ Management positions.
 - ❑ Positions with access to others' bank or credit account information, social security numbers, and birthdays.
 - ❑ Positions that involve access and authority over the employer's finances, or proprietary information.
 - ❑ Positions with regular access to \$10,000 in cash or more.

Other Rights and Privileges

Limited Control of Employees

- ❑ An employer cannot demand that employees allow the employer to access or view the employee's social media accounts.
- ❑ An employer cannot prohibit an employee from disclosing their wage information to others, including those also employed by the employer.
- ❑ An employer cannot prohibit an employee from disclosing information about the working conditions of the employer.

Remedies

The rights of employees described in this presentation are not universal. In California, several specific industries are regulated by detailed *wage orders*. These wage orders may provide additional rights for employees in some cases, but also provide certain exceptions from general requirements in others.

If you work in an industry that is controlled by a wage order, or are not sure, it may be best to speak with an experienced employment law attorney, like those at The Green Law Group. An employment law attorney will be able to listen to the specifics of your case and advise you on wage order exceptions or requirements that may apply.

Remedies (Contd.)

In addition to any unpaid wages that may be owed, an employee is often entitled to receive set penalties for violations of their rights. Sometimes these penalties can be as high as \$10,000 for each violation.

Or, where it can be difficult to determine the amount the employee has been wrongfully denied, a set amount will be awarded instead. For example, for every 10 minute rest break, or 30 minute meal break that the employee was entitled to and did not receive, they will be compensated one hour of wages.

Remedies (Contd.)

For most violations of an employee's rights, action can be brought either in state or federal court, or a complaint can be filed with the labor commission. Deciding where to pursue your claim can be a complicated and difficult decision.

By consulting with an experienced employment law attorney, the attorney will be able to analyze the specifics of your case and provide advice that will enable you to maximize your recovery.