



Law Office of Karen J. Sloat, APC (“LOOKS”)

Caring For Clients While Pursuing Justice

LOOKS news

Karen Cares...

In this issue, we celebrate our local agricultural industry. We honor the growers/ranchers, farmers, crop managers, labor contractors, field laborers, and others who support our Valley by their devotion to planting, cultivating, harvesting and distributing crops and livestock. As we reap the benefits of their work, we should also know that recent CA labor laws have increased requirements on Ag companies for training, recordkeeping and overtime pay, among other issues. Let’s support all of these great folks by buying local and expressing gratitude for their services!

~ Karen J. Sloat



Growing Our Firm



Welcome Michelle Wolfe!

“The firm’s reputation in the legal community and its strong commitment to clients brought me to the beautiful Coachella Valley. I am eager to help LOOKS clients as a zealous advocate. It is an honor to join LOOKS, where ‘caring for clients while pursuing justice’ is real!”

We are thrilled to welcome and introduce you to our Senior Counsel, Michelle M. Wolfe, Esq. Ms. Wolfe joined our LOOKS family in April and she has hit the ground running. Her extensive expertise in employment law and litigation has made her a valuable asset. She is caring, intelligent, and truly embodies our firm’s core values. If you are a client, you may have already had the pleasure of working with her.

Ms. Wolfe has over 30 years of experience as a civil litigator in a variety of civil and employment cases before juries and arbitrators. She brings a wealth of experience litigating employment matters relating to discrimination, harassment, retaliation, and wrongful termination. Ms. Wolfe has represented a wide variety of employers from small businesses to corporations (national companies). She has a passion for employment law and is dedicated to pursuing justice for our clients. We are glad she decided to call the Coachella Valley her new home!

Upcoming Event

Join Karen J. Sloat at Desert Communities Employer Advisory Council’s seminar, where Ms. Sloat will discuss, “Covid Backlash and Lawsuits.”

Date: Wednesday, October 12, 2022

Time: 8:15am – 11:00 am



Arbitration May Finally Be the Shield Employers Need to Ward Off PAGA Suits

Finally, California employers get some much-needed good news to help navigate the often-draconian Private Attorneys General Act of 2004 (PAGA). PAGA allows a single employee – regardless of how briefly they worked – to file a quasi-class action complaint against the employer for a nearly inexhaustive list of wage and hour violations, even if the employee was not subjected to the same wage and hour violation. PAGA penalties range from \$50 to \$200 each and they accrue for each pay period and for all nonexempt employees. Thus, even small to mid-sized companies can face PAGA penalties of hundreds of thousands to millions of dollars in practically the blink of an eye. Worse still, PAGA claims could not be arbitrated directly between the employer and the employee who filed the lawsuit. PAGA claims became de facto class actions in court.

The relief comes from the U.S. Supreme Court’s decision in *Viking River Cruises, Inc. v. Angie Moriana*. There’s a lot going on in *Viking River Cruises* starting with how the Court noted PAGA is a convoluted law, which California courts have made even more challenging for employers and courts to readily comprehend. So don’t feel bad if you find PAGA a confusing mess because so did the Supreme Court. Despite that, the Court set aside countless well-entrenched California court decisions and handed employers a powerful tool to combat PAGA’s often vicious bite.

In *Viking River Cruises*, the Court held that employers could enforce certain arbitration agreements to compel an employee to arbitrate individual claims, including individual PAGA claims, directly with the employer. That would preclude the employee from suing on behalf of other aggrieved employees. Once the arbitration was resolved, the employee could not continue to represent other employees – like in a class action – for PAGA violations they may have suffered.

Viking River Cruises is a victory for employers because they can use arbitration agreements requiring employees to arbitrate their individual claims while being shielded from the specter of a quasi-class action. Currently, though, California precludes employers from requiring employees to sign an arbitration agreement as a condition of employment unless it is voluntary, but the law has been on hold and its future viability is uncertain.

Not all arbitration agreements will meet the standards of *Viking River Cruises* so how to structure the arbitration agreement is essential. Employers should promptly speak with us about how they can try to leverage this development as further protection for their business.



“Labor” Laughs!

Looking for some corny humor? Look no further.

Why shouldn’t you tell secrets in a corn field?

A: There are too many ears.

How does a cucumber become a pickle?

A: It goes through a jarring experience.

What do you give a lemon that has been hurt? **A:** Lemon-Aid.



Migrant and Seasonal Agricultural Worker Protection Act

The Migrant and Seasonal Agricultural Worker Protection Act is a federal law established in 1983 to protect migrant and seasonal agricultural workers. According to the U.S. Department of Labor, this Act established employment standards related to wages, housing, transportation, disclosures, and recordkeeping. So how does this affect the Coachella Valley?

Our year-round sunny climate is ideal for growing fruits and vegetables. According to the Riverside County production report of 2020, the agriculture industry in our County produced more than \$1.4 billion in commodities. This includes \$334 million in vegetables, \$282 million in tree and vine harvests, and \$126 million in citrus.

Of the County’s total production, \$703 million worth of crops were produced in the Coachella Valley in 2020, making it the second largest agricultural region in the state. Wow! This is no easy feat and requires the hard work and talents of migrant and seasonal agricultural workers who help simplify our lives by growing, packing, and shipping fruits and vegetables to our local markets.

Additional protections were granted to migrant and seasonal employees under Government Code section 12950.1(g), effective January 1, 2020. As a result, employers must provide annual sexual harassment prevention training to all of these agricultural workers, and the training must meet Labor Contractor obligations under Labor Code section 1684.

Sexual harassment is against the law. The Law Office of Karen J. Sloat offers sexual harassment and abusive conduct prevention training in English and Spanish. If you want more information regarding these services, contact us today or scan the QR code below. Our services help employers stay compliant with state laws and provide employees with the proper tools to identify and prevent sexual harassment and abusive conduct in the workplace.



760-779-1313

www.KarenSloatLaw.com

The LOOKS Green Thumb



Left: Our Legal Secretary, Raelynn Vielmas, grows her very own Jalapeños and Habaneros!

Below: Look at these beautiful Jalapeños and Habaneros plants from Ms. Vielmas's backyard!



Below: Our Legal Assistant Maria Aguilar's family home has had this fruitful lemon tree since the 1980s. They have also planted rosemary, lemon grass, oregano, and chile piquin.



CA Assembly Bill 1066

As of January 1, 2022, overtime pay has changed for agricultural workers. One of the objectives of Assembly Bill 1066 is to gradually increase overtime pay for agricultural workers and have their wage reflect the same overtime pay as workers in most industries. Assembly Bill 1066 originally went into effect January 1, 2017, but the implications will continue to be felt by the agriculture industry through 2025. This bill provides additional protections for agricultural workers relating to their regular hours worked, overtime, and double-time pay under Labor Code sections 500 through 556. Agricultural workers were previously excluded from these protections.

How does this new law affect employers and employees? Employers with 25 or fewer employees are required to pay agricultural workers one and one-half times their regular rate of pay (1.5x regular rate of pay) for all hours worked after 9.5 hours in any one workday or 55 hours per workweek.

Employers with 26 or more employees have already been required to pay overtime rates since 2019. As of January 1, 2022, employers must pay 1.5 times the agricultural employee's regular rate of pay for all hours worked after 8 hours per workday or 40 hours per workweek and double the regular rate of pay after 12 hours in a workday.

Among other types of employees, Wage Order 14 defines "agricultural" workers as those who raise and manage livestock, prepare and treat the farmland, care for and harvest crops, or work as shepherders, irrigators and licensed crew members on commercial fishing vessels. Under this Order, agricultural workers are also entitled to one and one-half (1 ½) times that employee's regular rate of pay for the first 8 hours on the seventh (7th) consecutive day of work and double the regular rate of pay for any work performed after the 8 hours on the seventh consecutive day.

Scan the QR code for additional information from the Department of Industrial Relations.



760-779-1313

Did you know?

All-natural loofahs are made from a gourd, which is in the cucumber family. There are many benefits to switching to an all-natural loofah: they are chemical free, eco-friendly, gentle on your skin, and have reduced bacteria. Not only can this plant be used as a loofah, but it is also edible!



Joint Employer Liability

Read all about it! Scan the QR code below to read our latest article, "Watch Out! Your Association Could Have 'Joint Employer' Liability Without Your Knowledge!" published in the Community Associations Institute, Coachella Valley Chapter *HOA Living Magazine* August edition. Learn how California law defines a joint employer relationship and joint liability. Several tests have been created by governing bodies to assist in determining if such a relationship exists. Want to know more? Scan here.



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Or Current Resident

This is an advertisement.



International Can-It-Forward Day!

In 1809, the French government offered a significant cash award to anyone who could invent a way to preserve food in large amounts. Nicholas Appert, a french confectioner, discovered that food cooked and sealed in jars would not spoil. Although glass jars were incredibly expensive, this invention became necessary for preserving food for the military. In 1811, Bryan Donkin of the United Kingdom developed a way to seal food in an airtight can. This made canning affordable and convenient. In the 1900s, canned food started to reach the shelves of grocery stores all around the world, and August 1st became the International Can-It-Forward day.



The Hands Behind the Cans

Agriculture, food, and related industries contributed \$1.055 trillion to the U.S. gross domestic product (GDP) in 2020. 19.7 million full-time and part-time jobs were related to food and agricultural sectors, and roughly 2.6 million of these jobs were direct on-farm employment in 2020. The agricultural industry is roughly 10.3% of the total U.S. employment.

Jobs in agriculture are incredibly important, which is why employers need to make sure they are following all labor laws related to their agricultural workers and business. Staying up-to-date with labor laws can be quite difficult. The Law Office of Karen J. Sloat, APC can help employers understand and comply with applicable laws and regulations.