

Damon M. Ott

Shareholder

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Focus Areas

Litigation and Trials
Staffing, Independent Contractors and Contingent Workers
Wage and Hour
Employment Taxes
Class Action
Audit Services

Overview

Damon M. Ott has extensive experience representing and counseling companies in connection with a broad spectrum of employment and labor law issues, but focuses heavily on matters involving independent contractor classification, alternative workforce arrangements, and the complex legal and business considerations involved in such relationships. In addition to regularly defending clients in large-scale class, collective, and representative (PAGA) actions involving claims of independent contractor misclassification, Damon frequently assists clients with employment tax audits and cases. In particular, Damon has extensive experience in matters involving the California Employment Development Department (EDD), including representing clients before the California Unemployment Insurance Appeals Board (CUIAB) and in civil tax cases against the State of California.

Damon has served as trial counsel in three wage and hour class actions (involving independent contractor misclassification, compensability of travel/commute time, and compensability of non-productive time), all resulting in complete defense verdicts, with one resulting in a significant published appellate court decision clarifying the standard used to determine independent contractor status under California law. He assists clients in designing and maintaining defensible independent contractor arrangements, including drafting and revising contracts and related materials. Damon also performs audits of contractor arrangements and advises employers regarding potential improvements, areas of risk,

and amounts of potential exposure. In addition, he offers legal opinions and guidance to potential purchasers in the due diligence process for sales of businesses with significant independent contractor arrangements.

Damon represents clients in a wide range of industries with considerable experience assisting companies in the gig economy, transportation, energy generation, and technology sectors. He has provided advice to multiple industry associations and their members, including offering legal support for legislation and serving as negotiating counsel in multiple efforts to develop regulations with the EDD.

He is a member of the firm's Class Action Avoidance and Defense Practice Group, Wage and Hour Practice Group, Technology Practice Group, and the Transportation and Trucking Practice Groups. Damon has been heavily involved in firm management and administration, including as an active member of the San Francisco office's Hiring Committee since 2004, and formerly serving as a member of Littler's Associate Committee from 2008 to 2021. Damon was extended an offer to join Littler as an associate during his third year in law school and, following graduation, began his legal career in Littler's San Francisco office, where he has remained since starting in 2001. Damon was elevated to shareholder in 2008.

Professional and Community Affiliations

- Member, American Bar Association
- Member, State Bar of California
- Member, Bar Association of San Francisco

Recognition

- Recipient, American Jurisprudence Award in Civil Procedure

Education

J.D., University of California, Davis School of Law, 2001

B.A., The College of Idaho, 1997, *cum laude*

Bar Admissions

California

Courts

U.S. District Court, Northern District of California

U.S. District Court, Central District of California

U.S. District Court, Eastern District of California

U.S. District Court, Southern District of California

Publications & Press

A California employment attorney talks AB5

Transport Dive

September 12, 2022

Small Fleet Summit: Dealing with AB5 in California

FreightWaves

June 9, 2021

Speaking Engagements

2021 California Virtual Regional Employer Conference

Sacramento, CA

October 28, 2021

Keynote, Recent Trends and Developments in Employment Law Impacting The Transportation Industry

California Delivery Association Annual Meeting, Sacramento, CA

August 25, 2021

Transportation and Logistics Roundtable

June 23, 2021

Video Interview, Impact of AB5 on Trucking Industry

FreightWaves.com Online Summit

June 9, 2021

(R)evolution of the "ABC" Test – AB 2257 & Prop 22

MCLE Webinar

November 20, 2020

Overview of IC/Employment Changes

California Delivery Association Annual Meeting and Convention

March 4-5, 2016

Independent Contractors in the Sharing Economy

The Bar Association of San Francisco, Barristers Labor & Employment Law Section

October 15, 2015

Hot Topic Events – What Does the MDA Court Decision Mean for California Operators, TNC’s, ...and CDA Goes to Sacramento

California Delivery Association

August 6, 2015

California's Labor & Employment Laws, Staying Compliant - A Long and Winding Road Ahead

California Trucking Association

June 16, 2015

Overview of IC/Employment Changes

California Delivery Association Annual Meeting and Convention

March 6-7, 2015

Golden Rules For The Golden State: Key Insights Into California’s Complex Labor & Employment Laws For International Business Leaders And Human Resource Professionals

JSB Webinar

August 14, 2014