

## Montgomery Y. Paek

Shareholder

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## Focus Areas

Class Action

Unfair Competition and Trade Secrets

Appellate

Wage and Hour

## Overview

Montgomery Paek represents corporations and management in all types of employment litigation including actions involving:

- The Fair Labor Standards Act (FLSA), Nevada minimum wage and overtime, and related wage and hour claims
- Title VII of the Civil Rights Act claims for discrimination, harassment, and retaliation and claims under the Age Discrimination in Employment Act (ADEA)
- Noncompetition covenants, nonsolicitation covenants and confidential information/trade secrets

Montgomery is lead counsel in complex and contentious high stakes employment litigation in class actions and collective actions, injunctions for noncompete and trade secrets, discrimination and harassment, and director and officer liability. In class actions, Montgomery has represented clients in over 50 collective and class actions from inception through successful appeal. In his appellate practice, Montgomery briefed, argued, and obtained a landmark class action decision before the *en banc* Nevada Supreme Court that established the statute of limitations for minimum wage claims in Nevada. *Perry v. Terrible Herbst, Inc.*, 132 Nev. 767, 383 P.3d 257 (2016). He has also been appellate or amicus counsel in over a dozen appeals to the Nevada Supreme Court on multiple issues of first impression in wage and hour class actions including:

- *Martel v. HG Staffing, LLC*, 138 Nev. Adv. Op. 56, 519 P.3d 25 (2022) (prevailed on class action appeal that under NRS 608.018(3)(e)'s plain language, a CBA qualifies for the overtime exemption so long as it provides overtime in a different way or manner than NRS 608.018(1)-(2))

- *MDC Restaurants, LLC v. Eighth Judicial Dist. Court*, 132 Nev. 774, 383 P.3d 262 (2016) (prevailed on class action appeal that under the Minimum Wage Amendment, health benefits need only be offered or made available for the employer to pay the lower-tier minimum wage)
- *Valdez v. Cox Commc'ns Las Vegas*, 130 Nev. 905, 336 P.3d 969 (2014) (prevailed on class action appeal dismissal that when a claim against a party is severed, that claim proceeds separately from the unsevered claims)

In noncompete and trade secrets cases, Montgomery has successfully argued, enforced, and prevented TROs and injunctions in cases involving c-suite executives and direct competitors against all manner of opposing counsel from hometown local firms to national Vault 100 firms. In addition, Montgomery has experience successfully:

- Obtaining decertification, dismissals, and summary judgments of class action and collective action cases in their entirety
- Enjoining and preventing emergency TROs and injunctive relief in relation to employee breaches of confidential information, solicitation, trade secrets, and noncompete agreements as well as in general commercial litigation matters
- Prevailing on summary judgment in Title VII and commercial litigation matters
- Prevailing on appeals and extraordinary writ relief in State and Federal appellate matters including issues of first impression for class actions and wage and hour law.
- Obtaining temporary and extended workplace protective orders on behalf of employers for threats of workplace violence

Montgomery has represented employers before the U.S. Court of Appeals for the Ninth Circuit, the Nevada Supreme Court, the Equal Employment Opportunity Commission (EEOC), the Nevada Equal Rights Commission (NERC), and the Nevada Office of the Labor Commissioner. Additionally, he has represented clients in SOX whistleblowing actions before the Occupational Safety & Health Administration (OSHA), the Office of Administrative Law Judges (OALJ) at the Department of Labor (DOL), and in federal court.

Montgomery serves as the hiring shareholder for Littler's Nevada offices. He has been a mentor in Littler's SOAR (formerly Investment for Success) program as well as a mentor in the State Bar of Nevada's TIP (Transitioning Into Practice) program. Montgomery has also served as the founding editor-in-chief for the Labor and Employment Law Section Newsletter of the State Bar of Nevada. Prior to joining Littler, he worked as a commercial litigator for a regional law firm.

## Professional and Community Affiliations

- Membership Chair, Labor and Employment Law Section, State Bar of Nevada, 2013-2014
- Member, Federal Bar Association
- President and Co-Founder, Asian Pacific American Law Student Association (APALSA), University of Nevada, Las Vegas William S. Boyd School of Law, 2004-2005
- Member, Asian Bar Association of Las Vegas
- Member, Clark County Bar Association

## Recognition

- Fellow, *Litigation Counsel of America*
- Awarded, AV Preeminent® Peer Review Rating, *Martindale-Hubbell*
- Named, Rising Star, Mountain States, *Super Lawyers*, 2012-2016
- Named, Legal Elite, Top Southern Nevada Attorneys, *Nevada Business Magazine*, 2016
- Named, Top Lawyers, *Desert Companion*, 2014

## Education

J.D., University of Nevada, Las Vegas William S. Boyd School of Law, 2006

B.A., University of Nevada, Las Vegas, 1999

## Bar Admissions

Nevada

## Courts

U.S. Supreme Court

U.S. Court of Appeals, 9th Circuit

U.S. District Court, District of Nevada

## Publications & Press

### **Four Wage and Hour Takeaways for Employers Following Recent Nevada Supreme Court Decision**

*Littler ASAP*

August 26, 2022

### **Employment Law Class Actions in Nevada**

*Clark County Bar Association*

February 4, 2022

### **En Banc Nevada Supreme Court Clarifies State Record-Keeping and Minimum Wage Notice Requirements**

*Littler ASAP*

January 21, 2022

### **Nevada Modifies Statute Governing Noncompetition Agreements**

*Littler ASAP*

June 4, 2021

**Nevada Supreme Court Rules Courts May Blue-Pencil Unreasonable Noncompetition Agreements if the Agreement Includes Modification Provision**

*Littler ASAP*

January 11, 2021

**The Competition over Revising and Enforcing Noncompete Agreements in Nevada**

*Littler Insight*

June 19, 2019

**Littler Elevates 28 Attorneys to Shareholder**

*Littler Press Release*

January 3, 2018

**Court Reaffirms Decision on Minimum Wage Claims**

*Las Vegas Sun*

November 23, 2016

**HP Atty Didn't Puff Up Work History, Court Finds**

*Law360*

June 10, 2016

**In Las Vegas, Korean Basketball League's Draft Promises Money and Culture Shock**

*New York Times*

July 24, 2015

## **Speaking Engagements**

**Employment Law Class Actions in Nevada**

Clark County Bar CLE

February 8, 2022

**The Next Noncompete Reboot**

Nevada Virtual Regional Employer Conference

September 14, 2021

**COVID-19 FAQs with the Nevada Labor Commissioner**

March 25, 2020

**Employment Agreements From A to Z - Executive, Non-Compete, Arbitration Agreements, and More!**

Nevada Employer Conferences, Las Vegas and Reno

September 12-13, 2018

**Noncompetes and Trade Secret Protection: A Nevada Employer's Guide to Safeguarding Your Company's Business**

March 1, 2017

**Recent Landmark Decisions Impacting Nevada Employers Paying the Minimum Wage: What's Been Decided, How it Impacts You and How You Can Prepare**

November 29, 2016

**Nevada Wage & Hour: The Hot Topics**

Littler Mendelson, Las Vegas, NV

February 24, 2015

**Trend Spotting: 2011 Employment Update**

Las Vegas, NV

June 23, 2011

**Emerging EEO Challenges in the Coming Decade**

Nevada Employer Conference - Littler Mendelson, Las Vegas, NV

November 2010