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LABOR & EMPLOYMENT

Rising tide of joint employer lawsuits

EDITORS' NOTE

Who's an employer?

That is one of the most significant questions to emerge in the past year.

Whether in the context of franchised operations, independent contractors or staffing agencies, businesses across the country are puzzling over how regulators and courts will draw the line amid tectonic shifts in the global economy.

For the lawyers on the Daily Journal's list of top practitioners in California, employment has been and will remain one of the busiest areas of the law. Their accomplishments continue to boost the state's influence over the rest of the country.

In reviewing hundreds of nominations from law firms, alternative dispute resolution providers and others, we sought to recognize work that is having a broad impact on the legal community, the nation and society. We honor the best of them in these pages.

California's Top Labor & Employment Lawyers

Thomas E. Hill

FIRM:
Reed Smith LLP

CITY
Los Angeles

SPECIALTY
Employment defense



100 class actions and, with a 98-percent success rate, first chair in more than 250 adversarial proceedings.

In one of Hill's recent cases, he won a series of motions that resulted in the evisceration of a \$75 million putative class action and an award of more than \$20,000 in costs for his client. The case is now on appeal before the 9th U.S. Circuit Court of Appeals. *Alcantar, et al. v. Hobart Service*, CV11-1600 (C.D. Cal., filed Oct. 5, 2011).

In another, Hill scored a significant appellate victory for California Bank & Trust. The California Court of Appeal published a decision in June 2014, disapproving three prior appellate decisions that had questioned the financial neutrality of arbitrators in assessing the enforceability of arbitration agreements. *Malone, et al. v. California Bank & Trust*, 226 Cal. App. 4th 1551 (2014).

But as significant as it is now, Hill said employment law "was absolutely not what you would call a sexy area of law back in 1981."

"Things have very much changed over the course of three decades," Hill said. "Today wage and hour class action litigation is easily the biggest risk that large employers face — not only in California, but increasingly across the country."

Hill's practice reflects that growing national scope. "I have dozens of adversaries in different time zones across the country," he said. "By the time I get up and into the office, they've got a head start in making me have a bad day. But fortunately I can stay up late and make their next morning a bad one, too."

According to Hill, California was "ahead of the curve" in terms of the rise of complex, high-stake wage and hour litigation.

"Many of the procedural and due process issues being addressed for the first time by federal courts outside California have been a staple of litigation here for more than 10 years," he said. "It's like déjà vu."

— Alison Frost

In nearly 34 years of practice, Hill has been lead counsel in more than 600 civil lawsuits filed in more than 30 different states, lead counsel in more than