

WAGE AND HOUR LAWSUITS

Guidance Insights 2025

Report Highlights:



WHAT IS A WAGE
AND HOUR
LAWSUIT?



WHAT IS THE
FILING PROCESS OF
WAGE AND HOUR
LAWSUITS?



REPRESENTATIVE
ACTION CLAIMS
LIMITATION
PERIODS



WHY WAGE AND
HOUR CLAIMS ARE
VERY COMMON



WHY EMPLOYERS
SHOULD AVOID
WAGE AND HOUR
CLAIMS



RESPONDING TO
WAGE AND HOUR
CLAIMS



EMPLOYEE'S RIGHT
TO ACCESS THEIR
EMPLOYMENT
RECORDS



REDUCING THE RISK
OF EMPLOYMENT
CASES



COMMONLY
INQUIRED
CONCERNS (FAQS)

Prepared By:

Employer Lawyer LA

John Fagerholm, Employer Defense Attorney



contact@employerlawyerla.com



323-990-8118

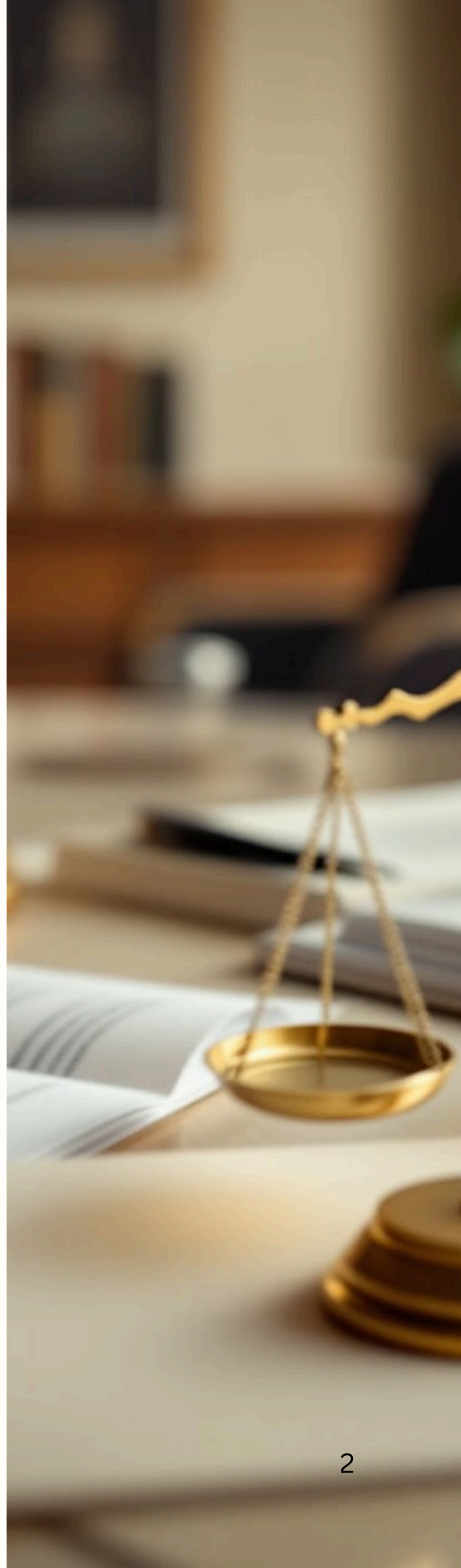
WHAT IS A WAGE AND HOUR LAWSUIT?

The federal, state, or municipal law governing the compensation to workers for services provided are known as wage and hour laws.

These laws cover minimum wages, overtime, double time, meal and rest breaks and other forms of compensation and rights for hours worked by employees.

Also, the definition of "employment" and "employees" is governed by these same set of laws.

Federal, state, and municipal labor laws all work together to determine the rights and responsibilities of employers and employees.



FILING PROCESS OF WAGE AND HOUR LAWSUITS

An employment claim is a legal action brought by a current or former employee against their employer on the grounds they were not compensated according to the law for their work. Depending on the claimed violation, a claimant may bring a claim with either the US Department of Labor, the California Division of Labor Standards Enforcement or file a Superior Court claim through an attorney.

- 1

Failure to pay minimum wage
- 2

Failure to pay all wages owed
- 3

Failure to pay wages for all hours worked
- 4

Failure to pay overtime
- 5

Failure to provide meal or rest breaks
- 6

Failure to reimburse
- 7

Failure to pay final check within the time limits required
- 8

Misclassifying nonexempt workers as exempt
- 9

Misclassifying workers as independent contractors
- 10

Not adhering to tip pooling policies
- 11

Unlawfully withholding an employee's paycheck
- 12

Incorrect wage deductions
- 13

Mileage deductions from an employee's paycheck
- 14

Sick pay violations



I was once in your
position.

I know what it's like to
have your business and
everything you have
worked so hard for put
at risk from legal action.
Don't hesitate like I did,
which cost me one of
my most successful
business ventures.

CONTACT US

today so we can help
you and your business.

John Fagerholm


REPRESENTATIVE ACTION CLAIMS

A class action lawsuit in the context of wage and hour litigation is a legal proceeding which one or more employees, known as "class representatives", file a lawsuit on behalf of a larger group of employees who they claim have experienced similar harm or have a common grievance. The group, referred to as the "class", collectively seeks legal remedies, such as compensation or injunctive relief, against the employer.



A PAGA claim refers to a legal action filed under California's Private Attorneys General Act (PAGA), a law that allows employees to step into the role of a "private attorney general" to enforce labor code violations on behalf of themselves, other employees, and the State of California. Under PAGA, employees can file lawsuits against their employer for violations of California labor laws, such as unpaid wages, missed meal or rest breaks, failure to provide accurate wage statement, or other workplace violations. Unlike traditional class actions, PAGA claims do not require employees to certify a class of aggrieved employees. Instead, they act as representatives of the state to pursue civil penalties of labor code violations.

 contact@employerlawyerla.com

 **323-990-8118**



LIMITATION PERIODS

The statute of limitations for most labor claims is two years for Federal claims and three years for State claims in California.

1

Federal Claims

2 years statute of limitations

2

State Claims in California

3 years statute of limitations

WAGE AND HOUR CLAIMS ARE VERY COMMON

Lawsuits related to wage and hours are not only common, but also increasing. One study states that the top 10 employment class action lawsuit settlements were \$641.3 million in 2021, up from \$294 million in 2020. According to the research, these numbers are projected to continue rising with more plaintiff friendly agendas and a more employee-friendly US Department of labor working diligently to remove pro-business rules.

Overtime violations are the most commonly settled employment allegations. According to research, overtime infractions account for almost 40% of all wage and hour settlements.

\$641.3M
2021 Settlements

Top 10 employment class action lawsuit settlements

\$294M

2020 Settlements

Top 10 employment class action lawsuit settlements

40%

Overtime Violations

Percentage of all wage and hour settlements



WHY EMPLOYERS SHOULD AVOID WAGE AND HOUR CLAIMS

Wage and hour claims can be costly for employers both monetarily and non-monetarily. Depending on the severity of the case, the employer may face any number of the following consequences:

- ☐ Actual damages
- ☐ Punitive damages
- ☐ Fines and penalties
- ☐ Back pay and the cost of benefits lost
- ☐ Interest
- ☐ Legal fees (both the employers and in some cases the employee's legal fees)


RESPONDING TO WAGE AND HOUR CLAIMS

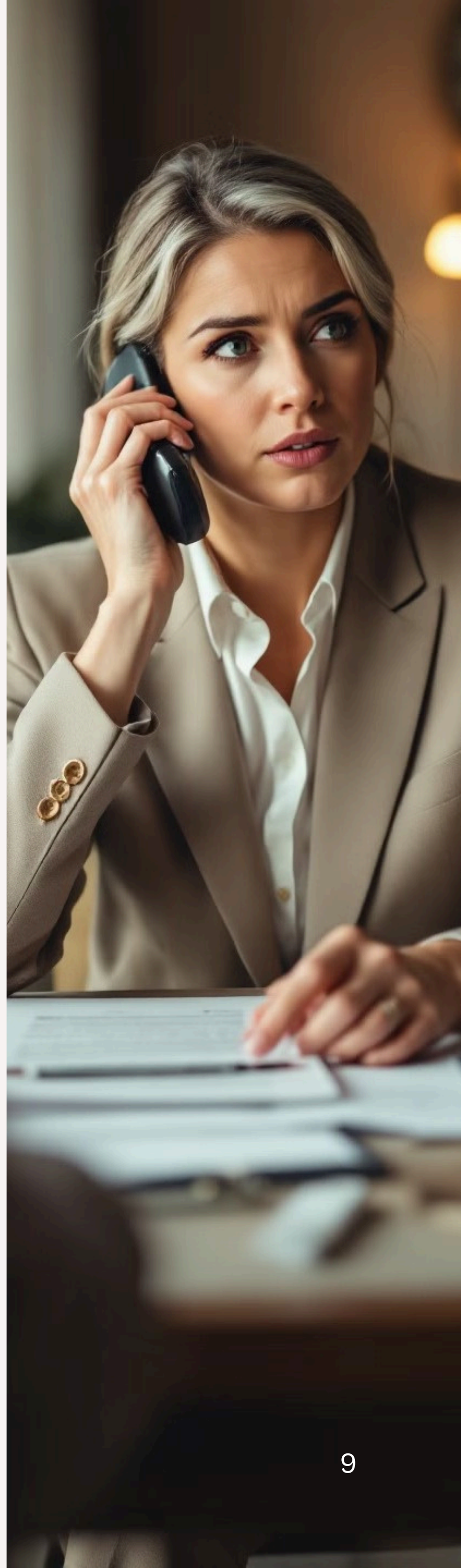
If you receive a wage and hour claim, your best course of action is to speak with your employment counsel as soon as possible.



There are strict response times for any litigation and not responding in time can severely impact your right to later defend yourself and your business including, potentially receiving a default judgment.

 contact@employerlawyerla.com

 **323-990-8118**





EMPLOYEE'S RIGHT TO ACCESS THEIR EMPLOYMENT RECORDS

If you receive a demand for employment records from an attorney, it is a tip off that an employee is about to sue you in some forum for some labor claim. In California, the law requires that the employer provide time and pay records to the employee within 21 days and within 30 days for all other employment records. There are four major sets of records and there is a \$750 fine for each set of records not provided in time.

1

Time and Pay Records

Must be provided within 21 days

2

All Other Employment Records

Must be provided within 30 days

3

Penalty

\$750 fine for each set of records not
provided in time

REDUCING THE RISK OF EMPLOYMENT CASES

Remaining up to date with employment laws and regulations help avoid lawsuits. However, most business would avoid many issues by hiring a dedicated HR employee and by using a professional payroll company.

Stay Informed

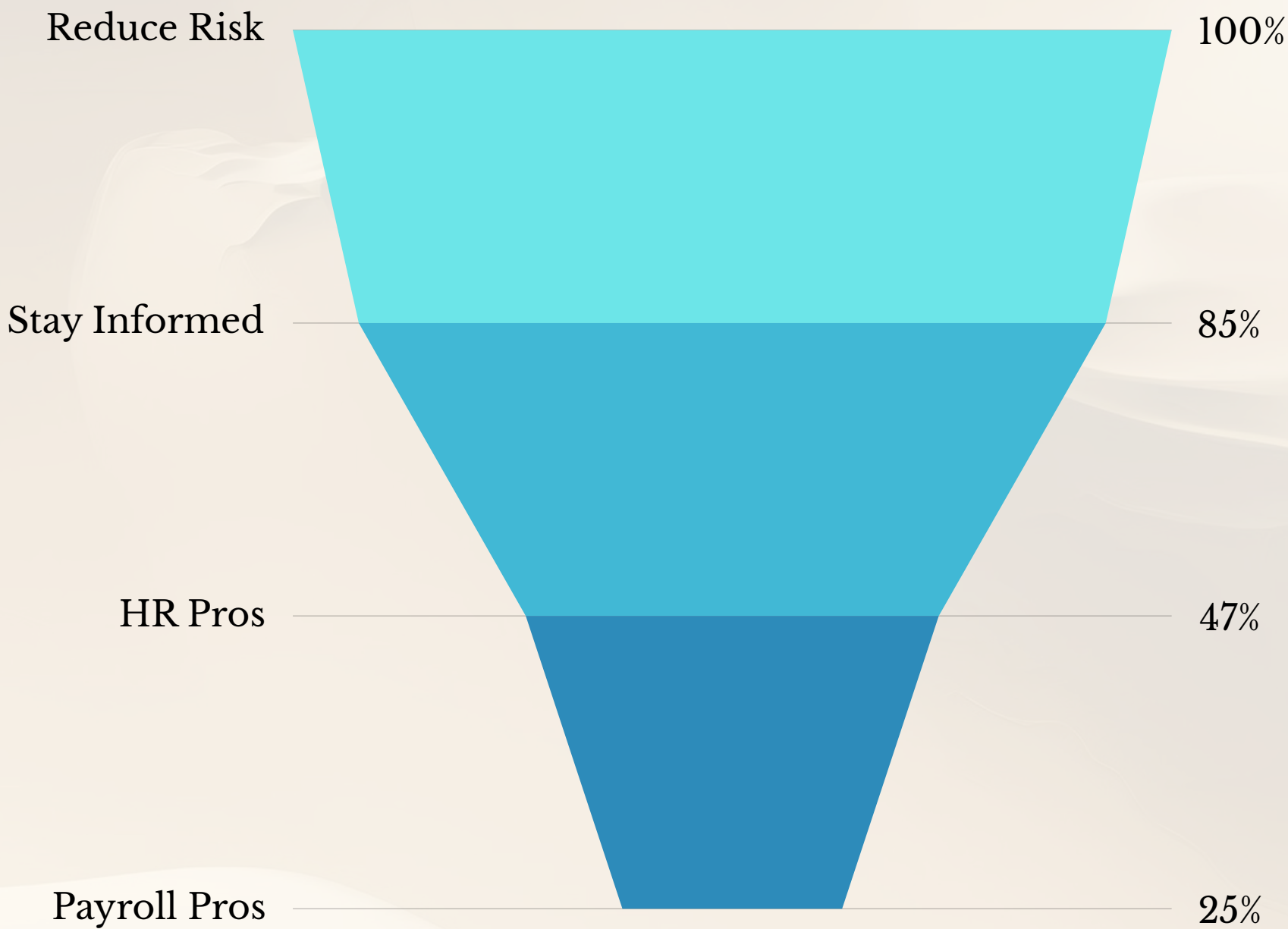
Keep up-to-date with employment laws and regulations

Hire HR Professional

Employ a dedicated HR employee to manage employment matters

Use Professional Payroll

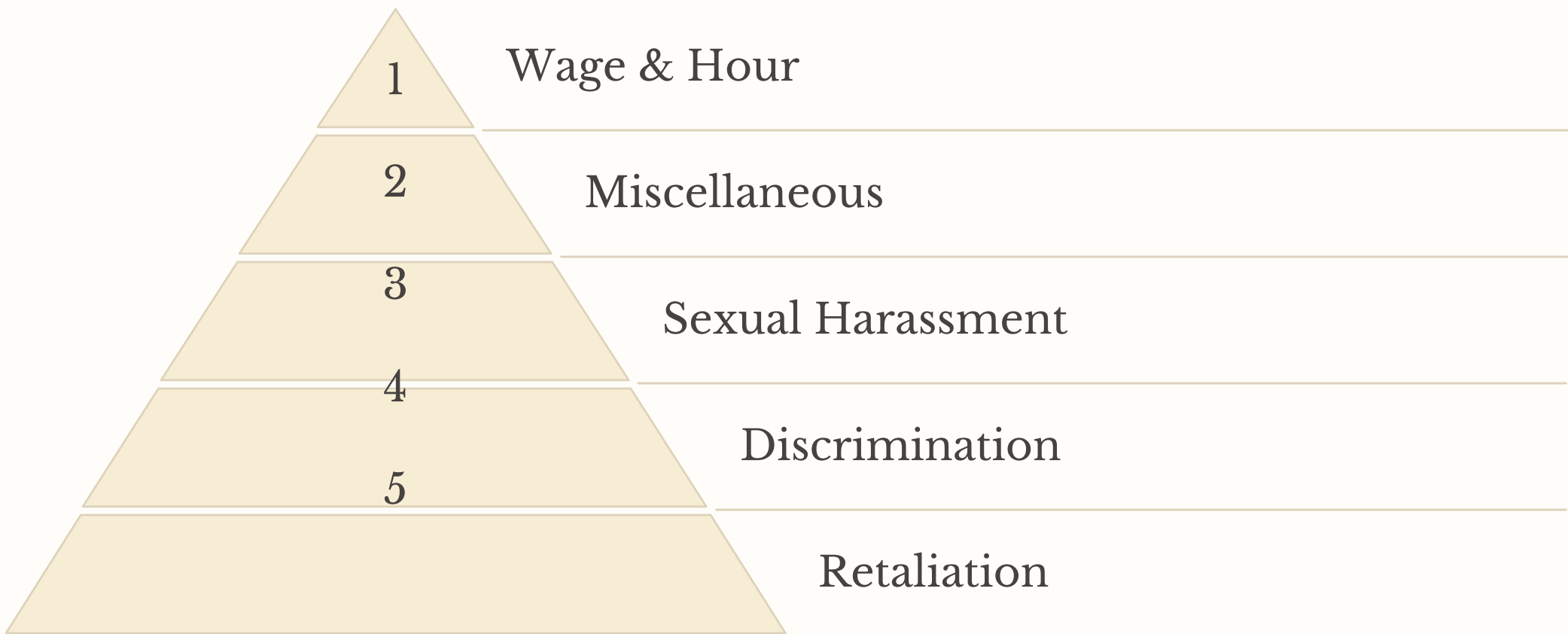
Utilize a professional payroll company to ensure accurate and timely payments



COMMONLY INQUIRED CONCERNS (FAQS)

What are the types of employment claims that could be filed against my business in California?

MOST COMMON CLAIMS



How much time does an employee have to file a claim against my business?

The statute of limitations for most labor claims is two years for Federal and three years for State claims in California.

POTENTIAL DAMAGES AND CONSEQUENCES

What are the potential damages to my business if an employee wins a labor claims against my business?

Depending to the severity of the case, the employer may face any number of consequences, including actual damages, punitive damages, fines and penalties, back pay and the cost of benefits lost, interest and legal fees (both the employers and in some cases the employee's legal fees).



Can I fire an employee for filing a claim?

No. If you fire an employee or make any major changes in the employee's employment because they filed a claim, there will be an additional claim for retaliation and wrongful termination against your business. If you fire the employee for another reason after they file a claim, there is a rebuttable presumption that it is retaliation and wrongful termination.

CLAIM FILING AND EVIDENCE

What happens after a claim is filed?

It depends on which forum the claim is filed. If it is filed in Federal Court, the employer has 20 days to file an answer. If filed in State court, the employer has 30 days to file and answer. And if filed with the Labor Commissioner, there is a request to file an answer within 10 days, but an answer is not required to preserve your rights.

What evidence do I need to support my claim?

All evidence is good evidence, but the best evidence is documents. Employers are required to keep certain employment records, including:

- 1

Pay stubs
- 2

Time sheets
- 3

Work schedules
- 4

And other forms of wage and hour records

IMPORTANCE OF LEGAL REPRESENTATION

It can be difficult to navigate the nuances of California employment laws. It is an area of law with many pitfalls and risks. Even prior to an actual lawsuit, it is essential to have legal counsel for a number of reasons but most importantly knowledge and experience.

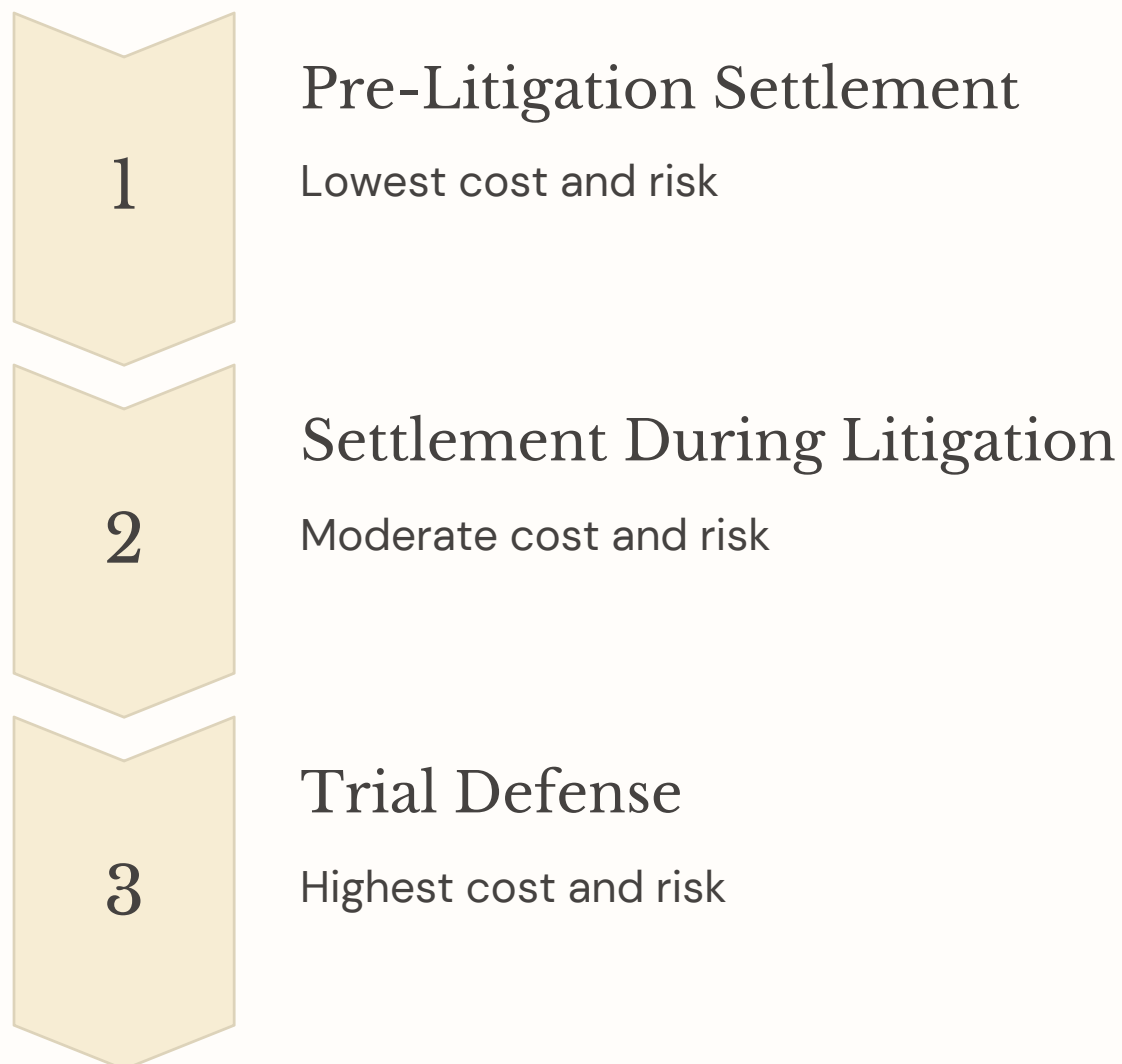
Even practicing lawyers in other areas of law would be best served to use an attorney focusing on employment defense if a claim is made against them. Besides the labor laws themselves, California courts have many procedures that need to be followed to properly defend a claim. Not knowing or understanding the procedures can result in penalties such as defaults or sanctions.

As a side note, in California, an individual can represent themselves in pro per but legal entities like corporations and LLC's have to have representation from a barred attorney.



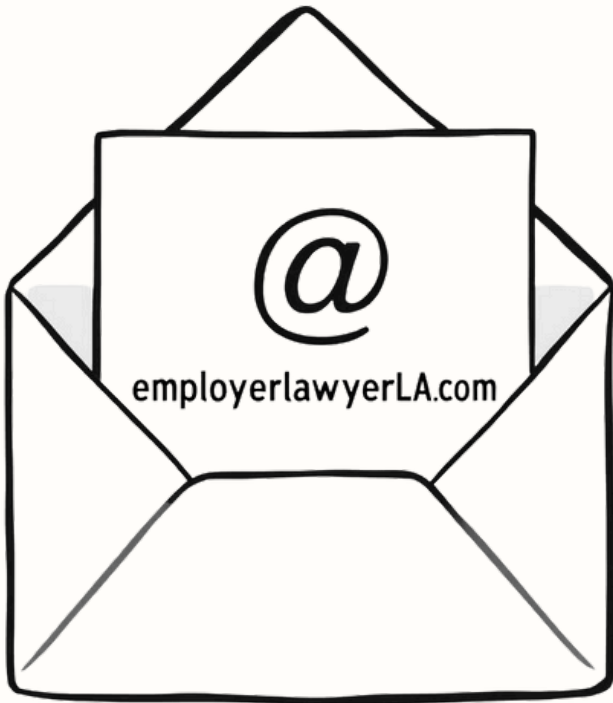
COST OF DEFENDING AGAINST AN EMPLOYMENT LAWSUIT

It is challenging to estimate the cost of any litigation and amounts of settlement or awards if a defense at trial is not successful. However, the overwhelming majority of cases are settled prior to trial which can significantly reduce costs and risks. In many cases, settlement can occur prior to litigation which can further reduce costs and risks.



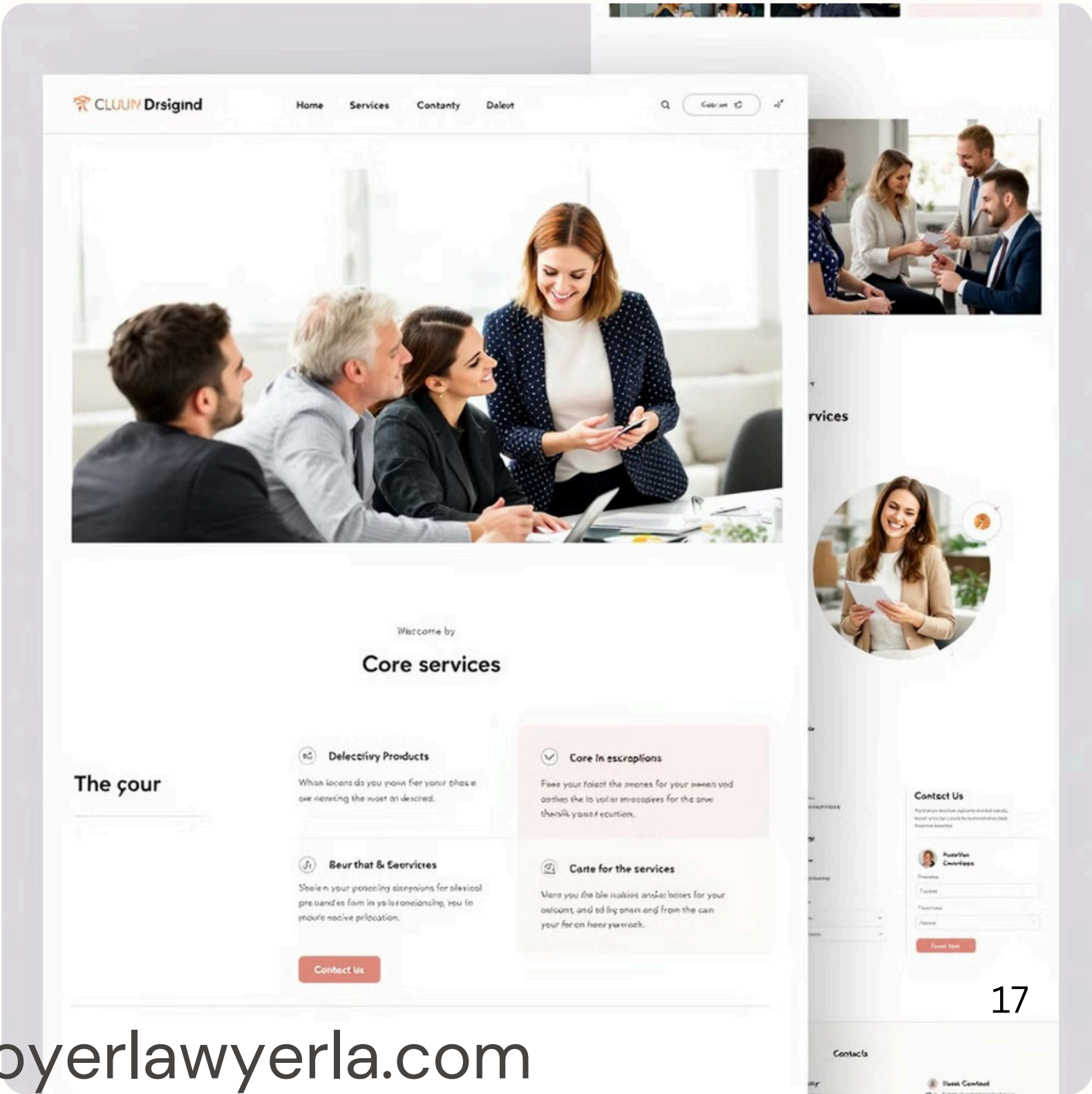
Contact Information

323-990-8118



Email

contact@employerlawyerla.com



Website

<https://employerlawyerla.com>