



Please contact any of the attorneys in our [Labor and Employment Group](#), or the authors below, if you have any questions regarding this Labor and Employment Alert.

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## Third Parties Beware: California Supreme Court Ruling Expands "Employer" Definition

A recent California Supreme Court decision has expanded the definition of "employer". This decision may impact third parties who now may be held liable for violating California labor laws.

### CA Supreme Court Adopts IWC's Definition of "Employer"

*Martinez v. Combs* involves seasonal agriculture workers who filed suit against their bankrupt employer, Munoz and Sons, for unpaid wages. According to the Farmer Agreement, Munoz was solely responsible for hiring, firing, training, assigning and setting the wages, hours, and working conditions of the employees.

The Court determined that only employers were responsible for unpaid wages. The remaining issue was how should employment be defined for the purpose of determining employer liability in actions brought under the California Labor Code Section 1194, which deals with minimum wages and overtime compensation. After reviewing a variety of options, the Court ultimately adopted the Industrial Welfare Commission's (IWC) three alternative definitions of employer: one who exercises control over the wages; suffers or permits to work; or engages, thereby creating a common law employment.

### Implications for "Employers"

*Martinez v. Combs* increases the risk of unpaid minimum wage and overtime liability in joint employer, employee leasing, or independent contractor arrangements. The definition of "employer" may be applied generally to other California Labor Code provisions with similar terminology, creating certain responsibilities for payment of wages to California employees. Employers should be mindful of the following points:

- Employers may not hide behind a "straw man" or contractual agreement to dilute the level of control they have over their workers.
- Employers that engage outside, independent contractors for labor or personnel services should specify that the other party is solely responsible for: (a) hiring/firing decisions, (b) supervising workers, (c) working conditions, and (d) wages and hours.
- Parties should agree to appropriate indemnity provisions which absolve the third parties from possible employment claims.

For any questions regarding how this decision may affect your business, or to learn how conducting an audit of your company's legal arrangements with independent contractors, joint employers, and other related entities may reduce your exposure and liability, please contact [Rebecca Aragon](#), chair of Venable's [Labor and Employment Practice](#) in Los Angeles, CA or [Christin Kim](#), a Labor and Employment associate in Los Angeles, CA.

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