



Arthur Hartinger

Partner

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Practice Areas

- Labor and Employment
- Government
- Litigation
- Workplace Investigations

Bar Admission

- California
- USDC Northern District
- USDC Eastern District
- USDC Central District
- USDC Southern District
- 2nd Circuit Court of Appeals
- 6th Circuit Court of Appeals
- 9th Circuit Courts of Appeals
- United States Supreme Court

Education

- University of San Francisco, School of Law, J.D.
- University of California, Berkeley, B.A.

Experience

Art is one of California's leading local government attorneys, with particular expertise in labor and employment law. He provides advice and represents public and private clients in complex state and federal litigation pertaining to many issues involving the public sector, including California and U.S. constitutional matters and the gamut of labor and employment claims.

Art's litigation practice includes class actions, writs, jury trials and administrative and arbitration hearings. He frequently advises councils and boards on local government legal issues.

Art is also experienced in labor relations, negotiations and workplace investigations. As a lead negotiator in collective bargaining, he has represented numerous employers in negotiations with deputy sheriffs, police and fire personnel, managers, service employees, laborers, attorneys and other professional and service employees.

Art spent almost a decade as a deputy city attorney in the San Francisco City Attorney's Office. During his tenure there, he represented San Francisco in a variety of litigation matters on behalf of the police department, civil service commission, Mayor's office, health department, Port and public officials.

REPRESENTATIVE EXPERIENCE

Litigation and Trials

PENSION/RETIREE MEDICAL REFORM

- **Rose v. County of San Benito**, 77 Cal. App. 5th 688, 292 Cal. Rptr. 3d 678 (2022), review denied (July 13, 2022) Represented San Benito County in a case that resulted in a favorable, published decision from the Sixth Appellate District. This case involved a claim by two former San Benito County employees who alleged that, during their employment, the county promised them “fully paid” retiree health insurance benefits for life. To prove their claims at trial the plaintiffs introduced the testimony of former county supervisors as well as high-ranking staff concerning their subjective beliefs and understandings regarding resolutions pertaining to the county’s provision of retiree health benefits. The trial court relied on this evidence in entering a judgment in the plaintiffs’ favor. The county appealed and based on the arguments raised, the Court of Appeal reversed, finding that the trial court “erred in relying upon inadmissible evidence to ascertain legislative intent.”
- **Harris v. County of Orange** (“Harris II”), 682 F.3d 1126 (9th Cir. 2012) & **Harris v. City of Orange**, No. SACV0900098AGMLGX, 2019 WL 7173148 (C.D. Cal. Nov. 13, 2019), *aff’d*, 17 F.4th 849 (9th Cir. 2021) Represented Appellee County of Orange on appeal from summary judgment in the County’s favor in this class action asserting a constitutionally vested right to retirement health benefits. On October 28, 2021, the Ninth Circuit issued a 2-1 opinion affirming summary judgment in the County’s favor after concluding that the benefits at issue were not vested. On December 9, 2021, the Ninth Circuit denied the plaintiffs’ Petition for Rehearing and Rehearing En Banc, and on March 10, 2022, the decision became final after the time for filing a petition for writ of certiorari passed.
- **Allum v. San Joaquin County Employees’ Ret. Ass’n**, No. C090833, 2021 WL 2525141 (Cal. Ct. App. June 21, 2021), *reh’g denied* (July 9, 2021), *review denied* (Sept. 29, 2021) Served as co-counsel of record for Respondent County of San Joaquin in an appeal from summary judgment and costs order entered in the County’s favor in case involving implementation of a settlement agreement with the County and the San Joaquin County Employees’ Retirement Association, with millions of dollars at stake. On June 21, 2021, the Court of Appeal issued an unpublished opinion affirming the summary judgment in the County’s favor. We opposed plaintiffs’ petition for review in the California Supreme Court and, on September 29, 2021, the Supreme Court denied review.
- **Retired Employees Assn. of Orange County, Inc. v. County of Orange** (2011) 52 Cal.4th 1171. Facing a \$1.4 Billion reported unfunded liability, the Board of Supervisors initiated a program to de-pool actives and retirees for purposes of setting health plan rates. Served as lead counsel in the case which resulted in the courts upholding the Board’s plan.
- **Fry v. City of Los Angeles** (2016) 245 Cal.App.4th 539. Successfully defended a program that required active employees to contribute toward the City’s retiree medical subsidy program, leading to a successful result.

- **Los Angeles Police Protective League, et al. vs. City of Los Angeles**, No. B280319, B281868 2018 WL 5610434 (Cal. Ct. App. Oct. 30, 2018) Represented with co-counsel the City of Los Angeles on appeal defending a program related to its retiree medical subsidy plan and obtained a reversal of the lower court's adverse ruling. On remand, Linda Ross, Art Hartinger and Imran Dar prevailed on the City's behalf in a bifurcated bench trial.
- **Mason v. Ret. Bd.** (2003), 111 Cal. App. 4th 1221 (2003) Successfully defended a class action seeking termination pay to count toward final compensation when calculating retirement allowances.

WAGE AND HOUR

- **Rai, et al. v. Santa Clara Valley Transportation Authority**, United States District Court, Northern District of California, Case No. 5:12-cv-04344-PSG. Served as lead counsel in a case brought by hundreds of transit operators claiming unpaid overtime under state and federal theories. We were retained after a Rule 23 class and the FLSA collective action were certified. We achieved a successful settlement.
- **Stitt, et al. vs. San Francisco Municipal Transportation Agency**, United States District Court, Northern District of California, Case No. 4:12-cv-03704-YGR. Served as lead counsel in a case brought by San Francisco Transit Operators claiming state and federal overtime.
- **Sahaj vs. El Dorado Irrigation District**, United State District Court, Eastern District of California, Case No. 2:11-cv-01341-GEB-DAD. Handled class action involving unpaid mealtimes and asserted both state and federal claims.
- **Stewart v. City & Cnty. of San Francisco**, No. 22-16018, 2023 WL 2064162 (9th Cir. Feb. 17, 2023) Successful defense of an FLSA collective action challenging the City's classification of hundreds of employees as exempt based on alleged violation of the FLSA's salary basis test.

LABOR RELATIONS

- **City & County of San Francisco v. Public Employment Relations Board**, Case No. A152913, 2019 WL 3296947 (Cal. Ct. App. July 22, 2019) Represented with co-counsel the City and County of San Francisco in a challenge to a decision by the Public Employment Relations Board ("PERB") invalidating a charter amendment that would improve public transit effectiveness. The Court of Appeal granted the City's writ for extraordinary relief, overturned significant portions of PERB's decision and awarded the City costs on appeal.

DISCRIMINATION/HARASSMENT/RETALIATION/WHISTLEBLOWING

- **Doe v. White**, 440 F. Supp. 3d 1074 (N.D. Cal. 2020), aff'd, 859 F. App'x 76 (9th Cir. 2021), cert. denied, No. 21-860, 2022 WL 892111 (U.S. Mar. 28, 2022) Served as co-counsel of record for the Board of Trustees of California State University and other Respondents in opposing petition for writ of certiorari presenting questions whether students at higher education institutions have constitutionally protected liberty and/or property interests in their continued enrollment. We prevailed in the trial court and the Ninth Circuit Court of Appeals. Plaintiff sought a petition for writ of certiorari in the United States Supreme Court. The Supreme Court asked for a response and, after filing our brief, on March 28, 2022, the Supreme Court issued an order denying certiorari.

- **Ramirez v. District Attorney's Office, et al.**, No. A151552, 2019 WL 1323449 (Cal. Ct. App. Mar. 25, 2019) Represented the City and County of San Francisco in successfully defending summary judgment in favor of San Francisco in an age discrimination case targeting former District Attorney George Gascon.
- **Booker v. City of Richmond, Contra Costa Superior Court**, Case No. C07-00408. Achieved a complete defense victory in this \$18 million-dollar high profile race discrimination, harassment and retaliation case filed by eight African American command staff officers in the Richmond Police Department. The jury returned a unanimous verdict in favor of the City and its two highest-ranking police officers.
- **Eng v. Santa Clara Valley Water District, Santa Clara County Superior Court**, Case No. 5:97-cv-20212-JW. Represented the Santa Clara Valley Water District in litigation filed by the former budget officer of the District. The budget officer claimed constructive discharge and asserted various causes of action, including wrongful discharge and violation of public policy, California Fair Employment and Housing Act (FEHA) claims and other state law claims. Represented the District in a jury trial. The Court granted the District's motion for a nonsuit, and the court of appeal affirmed.
- **McFall v. City of Tracy, San Joaquin County Superior Court**, Case No. STK-CV-UWT-2005-0001975. Successfully defended the City of Tracy in an action brought by a former employee alleging discrimination and retaliation under the California Fair Employment and Housing Act. Obtained a defense verdict after a jury trial. The City was awarded more than \$100,000 in costs.

PRESENTATIONS AND PUBLICATIONS

- *Workplace and Public Building Violence and Prevention Strategies*, Civil Law and Litigation Conference.
- *Has PERB Lost All Credibility*, California Public Employers Labor Relations Association Conference.
- *Harassment Prevention Training for Board Members and Supervisory Employees*, California Special Districts Association Conference.
- *CalPERS Moves Forward on New Retired Annuitant Regulation*.
- *Public Employment Relations Board (PERB) Update*, County Counsels' Association of California.
- *Paradigm Shift: Transparency, Sustainability & Accountability in Public Sector Employee Compensation*, League of California Cities, Annual Conference.
- *POBAR and FOBAR Update*, California Public Employers Labor Relations Association.
- *Public Employment Relations Board (PERB) Developments/Helpful Hints*, County Counsels' Association of California.
- *Maintaining Control on Your Island – How to Effectively Administer Discipline*, National Public Employers Labor Relations Association.
- *Fixing the Pension Problem: The Latest Public Scrutiny of Public Sector Wage and Benefits Packages*, Public Law Journal.

- *Sorry We Have Nothing To Give...But 'Let's Make a Deal' Anyway: How To Avoid Union 'Outburst' and Are Managing Leave Laws Like Playing Twister?*, Public Employer Labor Relations Association of California, Annual Training Conference.

PRESS AND AWARDS

- Northern California Super Lawyer, 2014 – Present
- Daily Journal's "Top 75 Labor & Employment Attorneys"
- Daily Journal's "Top 20 Municipal Lawyers in California"
- Daily Journal's "Top 100 Lawyers in California."
- Amicus Service Award from the International Municipal Lawyers Association

PROFESSIONAL AND COMMUNITY AFFILIATIONS

- Bar Association of San Francisco, member