

Ed Donohue Analyzes Impact of Epic Systems SCOTUS Decision on California Employers

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Hinshaw partner and business litigator, Ed Donohue, recently published an analysis in the *LA Daily Journal* titled “An Epic shadow over PAGA,” which discusses the potential implications for California employers of the U.S. Supreme Court decision in *Epic Systems Corporation v. Lewis*, 138 S. Ct. 1612 (2018). The Court ruled in *Epic* that an employer may lawfully require an employee to waive the right to bring a collective action under Section 16 of the Fair Labor Standards Act (FLSA). The court found a waiver found in the arbitration clause of an employment agreement must be enforced under the Federal Arbitration Act (FAA).

Donohue argues that the decision in *Epic* is significant for California employers for two reasons. First, the decision assures that employers with collective action waivers will be shielded from future multistate collective actions under the FLSA. Second, because collective actions under the FLSA are similar to representative actions under California’s Private Attorneys General Act of 2004 (PAGA), the *Epic Systems* ruling will likely be raised by employers in challenges to California’s judicially established rule that the right to bring representative claims under PAGA may not be waived in an employment arbitration agreement. *Epic Systems* casts doubt on current 9th Circuit precedent that holds the FAA does not preempt that rule.

Read the full article “[An Epic shadow over PAGA](#),” on the *LA Daily Journal* website.

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