

# Snell & Wilmer

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## **Brian J. Mills**

Partner | Orange County

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## **Main Bio**

Brian Mills is a partner and practice group leader for the firm's labor and employment law group. His practice is concentrated in employment litigation and counseling. Brian provides clients with ongoing advice on a wide range of personnel matters including hiring and termination decisions, employment agreements, wage and hour issues, discrimination/harassment prevention, and employee medical leave. He conducts investigations into workplace disputes and violence. Brian works with clients to develop employee handbooks, severance agreements, employment contracts, offer letters, confidentiality agreements, and personnel policies that are tailored to meet the needs of the business. He designs workplace reduction plans to comply with state and federal laws including the WARN Act and the ADEA. Brian provides training to supervisors and employees on sexual harassment.

Brian represents employers in all areas of litigation in state and federal court and arbitration, including claims of sexual harassment, race discrimination, reasonable accommodation of disabilities, retaliation, wrongful termination, wage and hour disputes (individual and class action), medical leave claims, trade secrets, and non-competition agreements. He practices before state and federal agencies, including the Department of Fair Employment and Housing (DFEH), the Equal Employment Opportunity Commission (EEOC), the Workers' Compensation Appeals Board (WCAB), the California Labor Commissioner (DLSE), the California Employment Development Department (EDD) and the United States Department of Labor (DOL). Brian also works in conjunction with employer's insurance carriers to represent employers on Labor Code § 132a and serious and willful misconduct claims.

He advises businesses on federal and state public accommodation access laws including the Americans with Disabilities Act, California Unruh Civil Rights Act, Disabled Persons Act, and Title 24 building code compliance.

## **Representative Litigation**

### ***Employment Litigation***

- Defense of wage and hour class action claims on behalf of hotel, grocery, construction, manufacturing, transportation, service and retail clients
- Defense of racial discrimination actions on behalf of restaurant, trucking, auto and retail clients
- Defense of sexual harassment and discrimination actions on behalf of hotel, restaurant, retail and service-based clients

- Defense of disability discrimination and medical condition claims on behalf of construction, auto, retail and technology-based clients
- Defense of "whistle-blower" actions on behalf of technology, service-based and retail clients
- Defense of wrongful termination claims on behalf of construction, manufacturing, retail, technology and hotel clients

### **Other Business Litigation**

- Defense of ADA and public accommodation actions against restaurant, grocery, auto, medical service providers, pharmaceutical, amusement park and retail clients
- Defense and prosecution of unfair competition, trade secret, breach of fiduciary duty, and interference claims on behalf of technology and service-based clients
- Defense of and prosecution of breach of contract and defamation claims for service-based clients
- Defended class and individual actions and advised trucking, busing, and logistics companies regarding application of the Federal Motor Carrier Act (FMCA)

### **Education**

- Loyola University School of Law, New Orleans (J.D., *magna cum laude*)
  - Law Review and Moot Court Board
  - American Jurisprudence Awards in Civil Procedure, Property, Copyright, and Patent Law
- North Carolina State University (Master's Program in Experimental Psychology)
- University of California at Irvine (B.A., Psychology with concentration in Biology)

### **Professional Memberships & Activities**

- Orange County Bar Association
  - Labor and Employment Law Section
  - Bridging the Gap Speaker - Labor & Employment Law (2006-2015)
- Association of Business Trial Lawyers
- Warren J. Ferguson American Inn of Court

### **Representative Presentations & Publications**

- "[Non-Competes Are Not Only Void in California But Can Now Subject Employers to Liability](#)," Co-Author, Snell & Wilmer Legal Alert (September 15, 2024)
- "Employee Leaves and New Employment Laws," Presenter, California Bus Association Convention, Reno, NV (November 6, 2023)
- "[Employees in California Get a Bump in Paid Sick Leave](#)," Co-Author, Snell & Wilmer Legal Alert (October 6, 2023)
- "HR Law Review: Employment Considerations for Managing Employees: Hybrid, Remote and Telecommuting; Artificial Intelligence and Employment Issues; and Employee Benefits for Recruiting and Retention," Presenter, 2023 FAOG Conference, San Diego, CA (September 12, 2023)
- "[Back From the Dead: California Legislature Resurrects the Industrial Welfare Commission](#)," Co-Author, Snell & Wilmer Legal Alert (July 31, 2023)

- "Punitive Damages," Co-Author, Employment Damages and Remedies, Chapter 6, Continuing Education of the Bar - California (May 2023)
- ["What Is California's New Pay Transparency Law and How Will It Effect Employers and Applicants?"](#) Episode Host, CalCurrent Podcast (February 9, 2023)
- ["2023: The Year Pay Transparency Becomes a Much Bigger Deal,"](#) Co-Author, Snell & Wilmer Legal Alert (November 15, 2022)
- ["Everything Employers Need To Know About the EEOC's Updated "Know Your Rights" Poster,"](#) Co-Author, Snell & Wilmer Legal Alert (October 26, 2022)
- ["It's All About the Money \(and Pay Equity\): California Will Require Employers to Disclose Salary Ranges in Job Postings,"](#) Co-Author, Snell & Wilmer Legal Alert (September 30, 2022)
- ["California Revives COVID-19 Supplemental Paid Sick Leave,"](#) Co-Author, Snell & Wilmer Legal Alert (February 10, 2022)
- ["U.S. Supreme Court To Review Vaccine Mandates,"](#) Co-Author, Snell & Wilmer Legal Alert (December 23, 2021)
- ["Sixth Circuit Wins ETS Lottery and OSHA Suspends ETS-Related Activities,"](#) Co-Author, Snell & Wilmer Legal Alert (November 17, 2021)
- "COVID-19 Vaccination and Testing: Emergency Temporary Standard," Co-Presenter, 2021 Federal OSHA Emergency Temporary Standard Webinar (November 10, 2021)
- ["OSHA's Vaccination and Testing ETS Suspended,"](#) Co-Author, Snell & Wilmer Legal Alert (November 8, 2021)
- ["COVID-19 Vaccination and Testing ETS,"](#) Co-Author, Snell & Wilmer Legal Alert (November 5, 2021)
- "OSHA and the Continuing Impact of COVID-19 on the Workplace," Co-Presenter, 2021 Employment Law Tool Kit Two-Part Webinar Series: Session 1: Issues for All Employers (November 4, 2021)
- ["Employers Revisit Mandatory Vaccinations for Employees Following Full Approval of the Pfizer-BioNTech Vaccine,"](#) Co-Author, Snell & Wilmer Labor and Employment Law Blog (August 27, 2021)
- ["To Mask or Not To Mask, That Is the Question... That Employers Are Asking,"](#) Co-Author, Daily Journal (June 23, 2021)
- ["California's New Face Covering Policy Imposes Additional Burdens on Employers,"](#) Co-Author, Snell & Wilmer Legal Alert (June 22, 2021)
- ["Face Coverings and Social Distancing Remain a Reality for California Businesses After Cal/OSHA Delays Vote,"](#) Co-Author, Snell & Wilmer Legal Alert (May 21, 2021)
- ["California Employers with 100+ Employees Should be Aware of Fast Approaching Pay Data Report Deadline,"](#) Co-Author, Snell & Wilmer Labor & Employment Law Blog (February 23, 2021)
- "Safe Workplaces and OSHA Compliance," Co-Presenter, Cal/OSHA Emergency COVID-19 Regulation Webinar (December 3, 2020)
- ["Cal-OSHA Emergency COVID-19 Regulation,"](#) Co-Author, Snell & Wilmer Legal Alert (November 23, 2020)
- "Trends in Wage & Hour Litigation," Presenter, 2020 Employment Law Tool Kit Three-Part Webinar Series: Session 2: California-Specific Issues (November 12, 2020)
- "Top Employment Law Concerns Surrounding a Return to Work," Co-Presenter, Financial Executives International (FEI) Orange County Webinar (May 13, 2020)

- "[A Roadmap to Reopening or Resuming Business in the Midst of a Pandemic](#)," Co-Author, Snell & Wilmer Legal Alert (April 22, 2020)
- "[Navigating California's Meal and Rest Break Requirements](#)," Quoted, HR Magazine (SHRM) (March 14, 2020)
- "[The Part-Time Worker Bill of Rights Is Introduced](#)," Author, Snell & Wilmer Labor and Employment Law Blog (December 13, 2019)
- "10 Tips to Help Keep You Out of Legal Hot Water with Your Employees," Presenter, Mattson Legal Seminar, Costa Mesa, CA (November 14, 2019)
- "Bad Apples: How to Spot Them, Swiftly Fire Them, and Reduce Your Exposure," Co-Presenter, Employment Law Tool Kit Seminar, Snell & Wilmer, Costa Mesa, CA (November 6, 2019)
- "Title III of the Americans with Disabilities Act: How Individuals Are Turning the ADA into an ATM," Presenter, Employment Law Tool Kit Seminar, Snell & Wilmer, Costa Mesa, CA (November 6, 2019)
- "Responding to Social Media Issues in the #MeToo Era," Presenter, California Bus Association Convention, Carlsbad, CA (October 14, 2019)
- "The *Dynamex* Decision Revisited," Presenter, CMAA Southern California Chapter Legal Seminar, Long Beach, CA (August 29, 2019)
- "I Think My Employee Is on Drugs – Now What Can I Do?" Presenter, Mattson Legal Seminar, Costa Mesa, CA (August 1, 2019)
- "[Battle on Making Dynamex 'ABC' Into Law Now Moves Into the California Senate](#)," Quoted, Freight Waves (July 9, 2019)
- "[California Meal and Rest Break Rules Are Preempted by Federal Law for Property-Carrying Truck Drivers](#)," Co-Author, Snell & Wilmer Labor & Employment Law Blog (January 4, 2019)
- "Best Practices When Terminating Employees," Presenter, Mattson Legal Seminar, Costa Mesa, CA (November 8, 2018)
- "Recent Trends in Wage and Hour Class Actions," Co-Presenter, Employment Law Tool Kit Seminar, Snell & Wilmer, Costa Mesa, CA (November 7, 2018)
- "*Dynamex*: The Destruction of the Independent Contractor Model and Where We Are Now," Co-Presenter, Employment Law Tool Kit Seminar, Snell & Wilmer, Costa Mesa, CA (November 7, 2018)
- "Navigating the Sea of Differing Wage and Employment Laws in California," Presenter, California Bus Association Convention, Olympic Valley, CA (October 22, 2018)
- "Did *Dynamex* Destroy the Independent Contractor Model?" Co-Presenter, Snell & Wilmer Seminar, Los Angeles, CA (October 17, 2018)
- "*Dynamex* and the Destruction of the Independent Contractor Model," Presenter, Orange County FEI Professional Development Session, Newport Beach, CA (October 10, 2018)
- "Did *Dynamex* Destroy the Independent Contractor Model? How *Dynamex* Affects Your Project," Co-Presenter, CMAA Southern California Chapter Legal Seminar, Long Beach, CA (October 4, 2018)
- "Did *Dynamex* Destroy the Independent Contractor Model?" Co-Presenter, Snell & Wilmer Seminar, Costa Mesa, CA (September 27, 2018)
- "Did *Dynamex* Destroy the Independent Contractor Model?" Co-Presenter, Snell & Wilmer and Association of Corporate Counsel (Southern California Chapter) Harbor Cruise CLE, Newport Beach, CA (June 20, 2018)

- ["Ten Practical Tips for Hiring Employees,"](#) Co-Author, Orange County Business Journal (June 18, 2018)
- "Spotting Hot Button Issues For Nonprofit Employers" (Training Program for Pro Bono Nonprofit Organizations Legal Assessment Clinic), Presenter, ACC-SoCal, Public Law Center, UCI Law, Irvine, Ca (May 10, 2018)
- "Quirks in California Employment Law Every Startup Should Know," Presenter, OC Chapter of National Contract Management Association Annual Education Symposium – Contracting in the Age of Startups, Technology & Innovation, Irvine, CA (April 26, 2018)
- "Employment Law Update," Presenter, Entrepreneurs' Organization Orange County Power Breakfast, Costa Mesa, CA (April 10, 2018)
- "New California Laws: Restricting an Employer's Ability to Make Pre-Hire and Personnel Decisions and More," Presenter, Mattson Legal Seminar, Costa Mesa, CA (March 15, 2018)
- ["California Supreme Court Deviates From Federal Regulations on Calculating Regular Rate of Pay on Flat Rate Bonuses,"](#) Author, Snell & Wilmer Legal Alert (March 9, 2018)
- ["Limiting the Scope of Anti-Retaliation Measures: The Supreme Court Narrows the Definition of the term 'Whistleblower' Under the Dodd-Frank Act,"](#) Co-Author, Snell & Wilmer Legal Alert (February 22, 2018)
- "Mediation: How It Works and Is It Worth It," Presenter, Entrepreneurs' Organization – Orange County, Irvine, CA (December 11, 2017)
- "What Not to Ask: Avoiding Discrimination Claims During the Hiring Process," Co-Presenter, Employment Law Tool Kit Seminar, Snell & Wilmer, Costa Mesa, CA (November 7, 2017)
- "Why Am I Hurting?: What Employers Should Know About Employees with Injuries, Disabilities and Medical Conditions," Presenter, Mattson Legal Seminar, Costa Mesa, CA (August 10, 2017)
- "Punitive Damages," Co-Author, Employment Damages and Remedies, Chapter 6, CEB - California (May 2017)
- "How Employers Can Help Prevent Workplace Sexual Harassment Lawsuits," Presenter, Mattson Legal Seminar, Costa Mesa, CA (March 23, 2017)
- "Updates on Exempt Employees Under the FLSA," Presenter, Employment Law Tool Kit Seminar, Snell & Wilmer, Costa Mesa, CA (November 16, 2016)
- "Internal Investigations: Overview and Current Developments," Co-Presenter, Employment Law Tool Kit Seminar, Snell & Wilmer, Costa Mesa, CA (November 16, 2016)
- "Avoid the Pain! What Employers Should Know About Accommodating Employees with Injuries, Disabilities and Medical Conditions," Presenter, California Bus Association Convention, Rancho Mirage, CA (October 17, 2016)
- "Drug Testing and Marijuana in the Workplace," Presenter, Mattson Legal Seminar, Costa Mesa, CA (September 22, 2016)
- "How to Deal with Unusual & Awkward Employee Issues," Presenter, Mattson Legal Seminar, Costa Mesa, CA (March 24, 2016)
- ["Ten Practical Tips for Terminating Employees,"](#) Author, Orange County Business Journal (December 7, 2015)
- ["New California Law Creates New Requirements for Employers Paying Workers on a Piece-Rate Basis,"](#) Co-Author, Under Construction (December 2015)

- "What to Expect When Your Employee is Expecting," Presenter, Employment Tool Kit Seminar, Snell & Wilmer, Costa Mesa, CA (November 12, 2015)
- "Identifying & Managing Problem Employees," Presenter, California Bus Association Convention, Yosemite, CA (October 20, 2015)
- "Ten Tip for Terminating Employees," Presenter, Mattson Legal Seminar, Costa Mesa, CA (September 24, 2015)
- "[Changes Affecting Employer's CFRA Policies and Procedures Begin Today](#)," Co-Author, Snell & Wilmer Legal Alert (July 1, 2015)
- "Hot Topics and Critical Issues in California Employment Law," Presenter, Mattson Legal Seminar, Costa Mesa, CA (June 25, 2015)
- "Claims Beyond OSHA," Presenter, OSHA Update Seminar, Snell & Wilmer, Costa Mesa, CA (June 19, 2015)
- "Avoiding Employment Law Hazards: Keys to Running a Tight Ship for In-House Counsel," Co-Presenter, Association of Corporate Counsel (Southern California Chapter), Long Beach, CA (June 3, 2015)
- "Punitive Damages," Co-Author, Employment Damages and Remedies, Chapter 6, CEB - California (May 2015)
- "Ten Tips to Prevent Workplace Sexual Harassment Lawsuits," Presenter, Mattson Legal Seminar, Costa Mesa, CA (March 12, 2015)
- "[The meal-break battle: If you operate buses in California, don't ignore the law](#)," Quoted, Bus & Motorcoach NEWS (December 1, 2014)
- "Why Your Employee's Workplace Injury Can Cost You Even More," Presenter, Employment Tool Kit Seminar, Snell & Wilmer, Costa Mesa, CA (November 13, 2014)
- "[WARNING: Your Collective Bargaining Agreement \(CBA\) May Not Protect You](#)," Author, Snell & Wilmer Legal Alert (November 13, 2014)
- "Give Me a Break! - What Employers Should Know About California's Meal and Rest Break Requirements," Presenter, California Bus Association Convention, Sonoma, CA (October 27, 2014)
- "Avoid the Pain! - What Employers Should Know About Accommodating Employees with Injuries, Disabilities and Medical Conditions," Presenter, Mattson Legal Seminar, Costa Mesa, CA (October 2014)
- "Ten Tips on How to Conduct an Effective Workplace Investigation," Presenter, Mattson Legal Seminar, Costa Mesa, CA (June 2014)
- "Independent Contractors – Risks & Rewards," Presenter, National Contract Management Association, Irvine, CA (May 15, 2014)
- "California Wage & Hour Master Class," Presenter, Business & Legal Resources and HR Hero, San Diego, CA (March 20, 2014)
- "Identifying and Managing Problem Employees," Presenter, Mattson Legal Seminar, Costa Mesa, CA (March 2014)
- "U.S. and California Supreme Court Game-Changing Cases of 2013 and Beyond: How Will They Impact Your Business?," Speaker, Roundtable Presentation, Snell & Wilmer, Costa Mesa, CA (February 25, 2014)



- "Avoiding Bad Apple Employees and Wage and Hour Nightmares," Presenter, Employment Tool Kit Seminar, Snell & Wilmer, Costa Mesa, CA (November 7, 2013)
- "[New California Law Requires Employers to Provide Heat "Recovery Periods"](#)," Author, Snell & Wilmer Legal Alert (November 6, 2013)
- "Wage & Hour Issues that Keep Employers Up at Night," Mattson Legal Seminar, Costa Mesa, CA (September 2013)
- "The Wage and Hour Pitfalls Multistate Employers Need to Avoid in California," Presenter, Multistate Employers in California Summit: Employment Law Essentials for HR Webinar, Business & Legal Resources (July 9, 2013)
- "California Employment Law Update: Dos and Don'ts for Multistate Employers," Presenter, HR Hero Webinar Series, Business & Legal Resources (April 16, 2013)
- "U.S. and California Supreme Court Game-Changing Cases of 2012 and Beyond: How Will They Impact Your Business?," Speaker, Roundtable Presentation, Snell & Wilmer, Costa Mesa, CA (February 26, 2013)
- "Do My Employees Ever Have to Work?," Mattson Legal Seminar, Costa Mesa, CA (February 2013)
- "Independent Contractors - What's in a Name?" and "New Hire Notices - More Paper for Employers to Complete," Speaker, Employment Tool Kit Seminar, Snell & Wilmer, Costa Mesa, CA (November 8, 2012)
- "Punitive Damages," Co-Author, Employment Damages and Remedies, Chapter 6, CEB (1st ed. 2012)
- "[Legal Alert - Brinker Gives Employers a Break but Not a Free Ride](#)," Author, Snell & Wilmer (April 13, 2012)
- "U.S. and California Supreme Court Game-Changing Cases of 2011 and Beyond: How Will They Impact Your Business?," Speaker, Roundtable Presentation, Snell & Wilmer, Costa Mesa, CA (April 2012)
- "I Think My Employee Is on Drugs," Mattson Legal Seminar, Costa Mesa, CA (February 2012)
- "The Ten Commandments of Religious Discrimination," Speaker, Employment Tool Kit Seminar, Snell & Wilmer, Costa Mesa, CA (October 2011)
- "Where Are My Employees Headed With My Trade Secrets?," Speaker, Employment Tool Kit Seminar, Snell & Wilmer, Costa Mesa, CA (October 2011)
- "[Do you need IMAGE? Promoting employer compliance with immigration laws](#)," Co-Author, Daily Journal (September 1, 2011)
- "[The Ten Commandments of Religious Discrimination](#)," Co-Author, Orange County Business Journal (August 22-28, 2011)
- "Help Protect Your Company From the High Cost of a Wage and Hour Lawsuit," Mattson Legal Seminar, Costa Mesa, CA (May 2011)
- "Take Control of Your Computers: Top 5 Considerations in the New Media Era," Speaker, Employment Toolkit Seminar, Snell & Wilmer, Costa Mesa, CA (October 2010)
- "[My Employee is Injured — So Why Am I in Pain?](#)," Co-Author, Orange County Business Journal, Vol. 33, No. 38 (September 20, 2010)
- "Tips for Dealing with Employees Who Have Disabilities, Injuries and Medical Conditions," Mattson Legal Seminar, Costa Mesa, CA (September 2010)

## **Professional Recognition & Awards**

- The Best Lawyers in America<sup>®</sup>, Labor & Employment Litigation (2023-2024), Employment Law – Management (2024)
- AV Preeminent<sup>®</sup> Peer Review Rating from Martindale-Hubbell<sup>®</sup>
- Southern California Super Lawyers<sup>®</sup>, Rising Stars Edition, Employment & Labor (2011-2012)
- Wiley W. Manuel Certificate for Pro Bono Legal Service, State Bar of California (2011-2014)

## **Community Involvement**

- University of California at Irvine Alumni Association
  - Board of Directors
- Orange County Community Tennis Association
  - President, Board of Directors
- Mission Basilica School, San Juan Capistrano, School Board Member
- Freedom Writers Foundation
  - Board of Directors

## **Previous Professional Experience**

- Kean, Miller, Hawthorne, D'Armond, McCowan & Jarman, L.L.P., Summer Associate

## **Bar Admissions**

- California

## **Court Admissions**

- Supreme Court of California
- United States District Court, All Districts of California