



## Geoffrey S. Sheldon

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### EXPERIENCE

Geoff is one of the firm's senior litigators. He represents the firm's public safety and other clients in litigation matters involving the Peace Officers Bill of Rights Act, the Firefighters Bill of Rights Act, the Fair Labor Standards Act, the California Labor Code, Title VII of the 1964 Civil Rights Act, the Fair Employment and Housing Act, the Americans with Disabilities Act, the Confidentiality of Medical Information Act, the Military and Veterans Code, the Uniformed Services Employment and Reemployment Rights Act, the California and United States Constitutions, and similar claims. Geoff is an expert in defending class and collective action lawsuits. He has defended numerous FLSA collective actions in federal court through trial and appeal, and successfully moved to decertify the class in many of these lawsuits. Geoff has also defended class actions alleging violations of the FEHA brought by the DFEH and individual employees. Geoff's litigation practice extends to handling federal and state writs, injunctions and appeals. As a member of Litigation Practice Group Executive Committee, Geoff establishes the firm's litigation policies and best practices.

Geoff is recognized throughout California as an expert in public safety personnel matters. He is the Chair of the firm's Public Safety Practice Group, and in this capacity oversees the firm's extensive public safety practice, including matters involving law enforcement personnel disciplinary appeals and litigation. He also provides advice and counsel to the Los Angeles Police Chiefs' Association and the Los Angeles Fire Chiefs' Association. He has handled over 100 police officer administrative matters and regularly provides advice and counsel to public safety departments on police personnel matters including discipline, use of force incidents, grievances, medical leaves, fitness for duty and disability accommodation, and public safety retirement issues. He also conducts internal investigations.

Geoff regularly advises the firm's clients on a wide-variety of employment matters, including employee performance and discipline issues, responding to DFEH and EEOC charges, Public Record Act requests and alleged Brown Act violations.

Geoff co-authors the firm's public safety monthly newsletters, *Briefing Room* and *Fire Watch*.

### EDUCATION

JD, Southwestern Law School, Los Angeles  
BA, University of Massachusetts at Amherst

### LEGAL EXPERTISE

Investigations  
Litigation Services  
Public Safety  
Wage & Hour

Employment Law

## REPRESENTATIVE MATTERS

### ADMINISTRATIVE HEARINGS

**Police Officer v. City (2015)** - Successfully prosecuted the dismissal of a peace officer for dishonesty. Officer had a history of absenteeism, and he requested a shift off using false pretenses. The officer attempted to blame his conduct on alcohol abuse and retained an expert to support his alleged defense, but City and its expert rebutted the defense.

**Police Officer v. City (2015)** - City prevailed in appeal by a police officer who appealed her removal from a canine assignment.

**Police Officer v. City (2014)** - Prevailed in a police officer's appeal of his dismissal for dishonesty. The officer was hired by the City as a lateral from another agency. Six years into his employment, the City received a "Brady letter" from the U.S. Department of Justice advising that while the officer while employed by a previous agency, had been involved in a conspiracy to plant narcotics on suspects. After an internal investigation, the City terminated the officer for dishonesty because he had not been truthful about the incident in his application materials. An arbitrator sustained the termination and the City Manager adopted the arbitrator's findings. The City then prevailed after the officer filed a writ in Superior Court challenging the termination.

**Police Officer v. City (2014)** - Prevailed in a termination and in writ proceedings in a matter involving a police officer who was terminated for excessive use of force. After an arbitrator reduced the discipline for the use of force charge, the officer was found psychologically unfit for duty and terminated after he refused to transfer to a non-sworn position as a reasonable accommodation. The termination was sustained at arbitration and also at Superior Court when the officer attempted to challenge the termination.

**Police Officer v. City (2013)** - Prevailed in termination appeal by a police officer for neglect of duty and failure to comply with Departmental orders. The officer had a history of "kissing off" work, and he was terminated after it was discovered he conducted a negligent DUI stop that led to a traffic accident.

**Police Officer v. City (2012)** - In a police officer discipline appeal hearing, prevailed against a police sergeant who appealed his demotion to the rank of police officer. The officer had been a Sergeant for approximately 12 years. He had received several commendations, good performance ratings and was selected as one of three supervisors to lead his department's SWAT team. However, the sergeant's performance had slipped. He received two reprimands for failing to exercise good judgment in the line of duty, and then threatened and assaulted a subordinate who had given him a "hard foul" during a pick-up basketball game with SWAT team members. While he was under administrative investigation for that incident, he was discovered running one of the City's automatic red light cameras while giving the camera "the bird."

### APPELLATE

**Campbell v. City of Los Angeles, et al. (2018)** - Successfully decertified two Fair Labor Standards Act (FLSA) cases brought by approximately 2,500 City of Los Angeles police officers seeking overtime pay for a 13-year period. The police officers claimed that the City's Police Department knew or should have known that they were working uncompensated overtime. The Department argued that it had no knowledge that its officers were not following its overtime policy. Following extensive discovery and exchange of information between the parties, the federal trial court granted the City's motion to decertify these FLSA collective

actions and dismissed the officers' claims. The officers appealed the decertification to the Ninth Circuit. The Ninth Circuit decided that no reasonable trier of fact could conclude that the Department fostered or tolerated a tacit policy of non-compliance with the FLSA, given the Department's overwhelming evidence of compliance with its valid FLSA overtime policy, and dismissed the officers' two collective lawsuits.

***ALADS v. County of Los Angeles, et al. (2017)*** - Mr. Sheldon has represented the Los Angeles County Sheriff's Department (LASD) in "Brady List" litigation since 2016, and he will be arguing the Sheriff's position at the California Supreme Court in the next several months. The LASD compiled a "Brady list," consisting of names of deputies whose personnel files contained allegations of misconduct that could be used for impeachment in a prosecution. The union representing rank and file deputies, ALADS, filed a lawsuit against LASD from creating a "Brady list," transferring or imposing duty restrictions on deputies who were on the "Brady list" and from distributing the "Brady List" to prosecutors so they could, in turn, fulfill their constitutional obligations. The trial court agreed with ALADS that, absent compliance with the Pitchess statutes, the LASD could not disclose to prosecutors the names of any deputies on LASD's Brady List, unless there was a pending criminal case. ALADS appealed, and the Court of Appeal reversed finding that the State's "Pitchess statutes," i.e., Government Code sections 832.5, 832.7 and Evidence Code sections 1043-1047, prohibit the disclosure of a law enforcement officer's name to prosecutors, even if to fulfill constitutional *Brady* disclosure obligations, absent a court order after a Pitchess Motion. The California Supreme Court granted review. Geoff will be arguing LASD's position once an oral argument date has been set.

***Guillen v. City of Gardena (2016)*** - A bus driver employed by the City alleged six causes of action, including disability harassment, failure to accommodate and whistleblower retaliation, against the City and two managers. Plaintiff/appellant's alleged disability arose, in part, from the post traumatic stress disorder he alleged to have suffered after he was assaulted by a bus passenger. The City terminated plaintiff for misconduct toward bus passengers. The trial court granted complete summary judgment on all claims. Plaintiff appealed, and the appellate court affirmed the judgment, finding that the City was not on notice of plaintiff's diagnosis and therefore could not have harassed or discriminated against him on this basis, and that plaintiff did not suffer any adverse employment actions.

***Berndt et al v. City of Los Angeles et al. (2015)*** - LCW prevailed on behalf of the City in this wage and hour case in both the District Court and ninth Circuit Court of Appeal. Approximately 20 Police officers employed by the City of Los Angeles' Police Department filed a federal lawsuit alleging wage and hour violations under the FLSA and provisions of the Labor Code. After the trial court granted the City's motion to dismiss, the only remaining claims were allegations that (1) the City's policy of paying police officers with compensatory time off (CTO) for non-FLSA hours worked violated the FLSA, and (2) the City should have paid overtime to the plaintiffs using a 40-hour overtime threshold for a seven-day period rather than the 171-hour overtime threshold for a 28-day period that the City adopted pursuant to the FLSA's section 207(k) (also known as the 7(k) exemption). The plaintiffs argued they did not qualify for the exemption because they were purportedly no longer performing "law enforcement activities" when they were assigned to do administrative work pending internal investigations. The City successfully moved for summary judgment on both FLSA claims, and the plaintiffs appealed. The Ninth Circuit affirmed the District Court's decision and held that the FLSA regulations expressly permit employers to compensate employees with CTO for "non-FLSA" overtime, and the Ninth Circuit also agreed that the City properly established the 7(k) exemption.

***County of Los Angeles v. LA County Employee Relations Commission, et al. (2015)*** - LCW prevailed at the superior court and on appeal in a case where after entering into MOUs, two public safety unions filed "class" grievances on behalf of approximately 10,000 current or former employees seeking MOU overtime pay for "donning and doffing" activities, as well as overtime for "off-the-clock" supervisory activities. After the County's Employee Relations Commission granted the unions' request for class arbitration, the County and its Sheriff's Department sued the Commission and the two unions for declaratory relief, injunctive relief and a writ of mandate. The unions, in turn, filed a cross-complaint seeking to litigate their 10,000 members'

contractual overtime claims in a class action venued in Superior Court. In a published decision, the Court of Appeal found for the County/Sheriff's Department, holding that since the parties never contracted for "class" arbitration the only way the various overtime claims could be pursued was in individual arbitrations.

***Blythe v. County of Riverside (2010)*** - Court of Appeal reversed the trial court on an issue involving mitigation of damages. Court of Appeal found that County did provide evidence of comparable employment and the trial court did not have sufficient evidence to support a contrary holding.

## LITIGATION

***Lee v. City of Montebello (2016)*** - LCW obtained summary judgment in this lawsuit, in which a former employee alleged that her termination was in retaliation for reporting errors by the City in calculating her PERS contributions and for making complaints about her manager. Plaintiff also alleged that she was terminated without constitutional due process. The trial court granted summary judgment, finding that plaintiff's complaints did not involve matters of public concern under the First Amendment, and that her due process claim was barred because it had been adjudicated in a writ proceeding she filed contesting her termination.

***Biggers v. City of Indio (2015)*** - LCW prevailed for the City in police officer's petition for writ of administrative mandamus challenging his termination for dishonesty associated with false statements on his application materials

***Association for Los Angeles Deputy Sheriffs, et al. v. County of Los Angeles, et al. (2012)*** - LCW, with Geoff as co-lead counsel, represented the County in a FLSA collective action where the U.S. District Court granted several key motions filed by LCW on behalf of the County. The lawsuit involved the "donning and doffing" claims of approximately 3,000 deputy sheriffs in two different, yet consolidated, collective action lawsuits filed against the County and its Sheriff. The trial court also granted the County's motion to decertify the remaining "off-the-clock" work claims. The District Court's rulings effectively ended two large collective/class action lawsuits after several years of litigation.

***Rosales v. County of Los Angeles (2011)*** - In this FLSA collective action, a class of 700 IHSS social workers who evaluated IHSS recipients' needs and made recommendations regarding the services to be performed by IHSS providers sought compensation for unreported overtime and certification of the class. LCW successfully defeated plaintiffs' attempt to certify the class and limited the case to just one social worker. The case then settled for nuisance value.

***Nolan v. City of Los Angeles (2011)*** - 43 LAPD supervisors claimed that the LAPD violated the FLSA by failing to pay them overtime for pre-shift and post-shift work, missed meal breaks and donning and doffing of their uniforms. LCW obtained summary judgment for the LAPD on plaintiffs' donning and doffing claim. Following a seven day jury trial on the claims of four representative plaintiffs, the jury returned a partial verdict for plaintiffs, but awarded them less than 3% of the damages they sought. The parties then resolved the remaining claims for the other plaintiffs based on the jury's verdict.

***Moon v. City of Downey (2010)*** - LCW obtained summary judgment in an action brought by a fire fighter who alleged he was harassed, retaliated against and denied promotion based on his sexual orientation. Plaintiff could not state a prima facie case for any of these causes of action, and the City demonstrated legitimate, non-discriminatory reasons for promoting another individual over plaintiff.

***Petersen Law Firm v. City of Los Angeles (2009 and 2013)*** - LCW, with lead counsel Geoff Sheldon, prevailed on an Anti-SLAPP motion in a case challenging investigation of police officers. After the matter was appealed and remanded, the trial court reconsidered the City's motion for attorney's fees and

ruled that the City was entitled to recover the entire amount of attorney's fees and costs it requested.

***Bentley v. County of Los Angeles, et al (2009)*** - In a federal lawsuit a County client defeated a motion for conditional certification of a collective action filed by a potential lead plaintiff in a Fair Labor Standards Act ("FLSA") wage and hour action.

***Maciel v. City of Los Angeles (2008)*** - Plaintiff sued for violations of the Fair Labor Standards Act alleging he was entitled to overtime pay for time spent "donning" and "doffing" his police uniform; and various "off-the-clock" tasks performed pre-shift, post-shift and during unpaid meal periods. LCW obtained a defense verdict on all claims.

#### **AFFILIATIONS**

State Bar of California, Labor & Employment Section

Los Angeles County Bar Association

#### **AWARDS**

Top 75 Labor & Employment Lawyers, *Daily Journal*, (2015 & 2019)

Selected for inclusion in Southern California *Super Lawyers*, (2017, 2018, 2019)

Selected for inclusion in Southern California *Rising Stars*, (2004-2008)

#### **PUBLICATIONS**

**Should Prosecutors Get the Names of Officers Who Commit Misconduct?**, Jun 7, 2019

**CA Supreme Court Oral Arguments: Can Police Share Problem Officers' Names With DAs?**, Jun 5, 2019

**Should prosecutors get the names of officers who commit misconduct?**, Jun 5, 2019

**Courts Begin To Weigh In On Senate Bill 1421 and the Release of Police Records**, Feb 28, 2019

**UPDATED - New Legislation Will Impact Litigation of FEHA Claims, Employer-Employee Agreements, and Necessitate Additional Employer Training**, Oct 15, 2018

**Court of Appeal Holds that Law Enforcement Agency May Not Disclose "Brady List" to Prosecutors Absent Compliance With Pitchess Statutes**, Jul 13, 2017

#### **PRESENTATIONS**

**Public Sector Employment Law Update**, East Inland Empire ERC, Fontana, Jan 9, 2020

**Navigating the Crossroads of Discipline and Disability Accommodation**, East Inland Empire ERC, Fontana, Jan 9, 2020

**Public Sector Law Employment Update**, Orange County Consortium, Brea, Nov 7, 2019

**Best Practices for Conducting Fair and Legally Compliant Internal Affairs Investigations**, Los Olivos Community Center, Irvine, Oct 23, 2019

**Public Safety Legal Update**, San Bernardino & Riverside County Police Chiefs Conference, Indian Wells, Oct 9, 2019

**Legal Issues Regarding Hiring and Promotions**, LA County HR Consortium, Los Angeles, May 9, 2019

**Medical Leaves, Disability Issues and Retirement and the Interactive Process in the Public Safety Environment**, California Police Chiefs Association (CPCA) Annual Training Symposium, Santa Clara, Mar 9, 2019