

Sheppard Mullin Achieves Significant Constitutional Victory in California Federal Court for Fowler Packing Company, Inc.

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In a significant constitutional victory on behalf of one of California's largest growers of tree fruit, Sheppard Mullin prevailed in a federal equal protection challenge to state wage and hour legislation which purported to "carve out" our client, Fowler Packing Company ("Fowler"), from the protections of Assembly Bill 1513, a 2016 law relating to the underpayment of "nonproductive time" wages by piece workers. AB 1513 created a "safe harbor" for a limited time whereby employers could avoid unanticipated and potentially ruinous liability and penalties by making back payments within a specified period of time. AB 1513 applied to all employers except for Fowler and two other companies, which were excluded from the safe harbor protections, thus preventing it from asserting the affirmative defense in a pending wage and hour class action, *Aldapa v. Fowler Packing Co., Inc.* (E.D. Cal).

Fowler sued California officials on behalf of Fowler alleging, among other things, that AB 1513 violated the 14th Amendment's Equal Protection Clause. Among other things, Fowler alleged that the Legislature had excluded it at the behest of the UFW. The district court dismissed Fowler's complaint. The Ninth Circuit reversed, holding in a published opinion that Fowler had plausibly alleged an Equal Protection violation. On remand, Fowler moved for summary judgment in November 2017, which remained under submission for nearly six years.

In late 2022, the district court issued a "status report" suggesting that the case was moot, largely as a consequence of the district's failure to render a decision before AB 1513's repeal of the safe harbor in early 2021, and in light of a pending settlement in *Aldapa*. In March 2023, with a final class action settlement hearing in *Aldapa* set for early June 2023, and no indication that the district court would rule on the motion for summary judgment before the hearing, Fowler petitioned the Ninth Circuit for a writ of mandamus, requesting that it order the district court to rule on the motion for summary judgment before the *Aldapa* final settlement hearing. The Ninth Circuit granted the writ and ordered the district court to rule by May 29. After supplemental briefing and nearly two hours of additional oral argument on Monday, May 22, 2023, the district court ruled that the case was not moot, that AB 1513's carve-outs violated the Equal Protection Clause, and could be severed from the other provisions of the statute.

Partner David Schwarz represents Fowler with assistance from associate Kevin Murphy.

[Click here to read the opinion.](#)

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Practice Areas

Litigation