

# Bird Marella Defeats Wage and Hour Class Action Utilizing Standing Argument at the Pleading Stage

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*Updated February 2021*

Principal [Ekwan Rhow](#) and associate [Kate Shin](#) won dismissal of a wage and hour class action after the Alameda Superior Court sustained their demurrer filed on behalf of multiple corporate and individual defendants.

The class action plaintiff, a former employee of the defendant restaurant, sought over \$5 million dollars in damages for the putative class comprised of hundreds of former and current restaurant workers. After crafting a unique standing argument and obtaining an initial ruling sustaining its initial demurrer but with leave to amend, Rhow and Shin convinced the court to allow only limited discovery in advance of another demurrer. After reformulating the argument, they subsequently convinced the Court that there was no reasonable possibility of class certification in the case. Based on this argument, the Court dismissed the class action allegations.

On February 17, 2021, Rhow and Shin secured affirmance of the ruling from the California appellate court, upholding the trial court's dismissal of the class allegations on demurrer.