



Partner

# Deborah K. Foster, PhD

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## PRACTICE AREAS

Class Certification  
Damages  
Discrimination  
Labor & Employment  
No Poaching  
Wage & Hours

## EDUCATION

Dr. Foster earned her PhD in economics and her MA in economics from Michigan State University and her BS in business and economics from Trinity University.

Dr. Deborah Foster is a labor economist and an expert in applying data analysis to labor and employment issues in legal disputes. She has provided deposition testimony and expert reports in both state and federal court, as well as mediation, arbitration, and trial support. Her practice includes advising clients on matters relating to race and ethnicity, gender, and age discrimination claims as well as a wide range of wage and hour issues including misclassification, off-the-clock work, time-shaving, meal and rest break violations, rounding, and regular rate calculations.

In class action matters—including nationwide FLSA, state-specific, and hybrid actions—Dr. Foster frequently analyzes large data from multiple sources to address issues related to class certification and to quantify claims. She performs variation studies, examines the typicality of the named plaintiff(s), and calculates exposure under alternative scenarios and legal theories. Additionally, Dr. Foster performs critiques of opposing experts' analyses and aids counsel in understanding the underlying assumptions and their impact on the results. She has worked on these cases in both an expert capacity where she has provided testimony and declarations and in a consulting role where she has helped attorneys understand the data and its implications on the litigation.

Dr. Foster also provides individualized analyses of job market opportunities, mitigation efforts, and damages related to discrimination and wrongful termination claims. She has been designated as an expert and provided deposition testimony in these matters.

In addition to her labor practice, Dr. Foster has experience in commercial litigation and intellectual property where she has assisted clients with matters related to bankruptcy, fraud, breach of contract, and patent infringement.

## INDUSTRIES

- Financial Services
- Insurance
- Health Care

- High-Tech
- Hospitality
- Manufacturing
- Professional Services
- Retail
- Telecommunications
- Transportation

## PROFESSIONAL AFFILIATIONS

- American Bar Association
  - Section of Litigation
  - Labor & Employment Section
- American Economics Association
- Association of Public Policy Analysis and Management
- Society for Human Resource Management

## PREVIOUS EXPERIENCE

- Economist, Welch Consulting
- Michigan State University, Instructor and Researcher
- Consultant, Navigant Consulting

## CALIFORNIA

Wage and hour issues unique to California include daily overtime/double time/seventh day premiums, meal period and rest break requirements, and PAGA claims. Dr. Foster specializes in California's unique wage and hour laws and has extensive experience analyzing time and pay data to address those issues. She has assisted clients in evaluating such claims, analyzing variation to address suitability of class treatment, and valuing the related damages and penalties. She has submitted declarations and provided deposition testimony on these issues in the Superior Court of California.

Dr. Foster's analysis has been cited by Judges in their court decisions in several wage and hours cases in which the Court has found in favor of the defendant, in part, relying upon Dr. Foster's careful analysis of the data as effective evidence to evaluate the wage and hour class action claims. Recent decisions include denying class certification related to meal periods and unpaid work time in Superior Court of California, the upholding of summary judgement in a rounding case in California Court of Appeal, and awarding summary judgement in a rounding case in California court.

## CASE EXPERIENCE

### Edgeworth Client Prevails in Federal Lawsuit Alleging Discrimination

In 2015, a single plaintiff sued Abbott Laboratories for alleged race discrimination and retaliation in a termination decision. Edgeworth Economics Partner and, Dr. Deborah Foster, was retained to consult on behalf of Abbott Laboratories, which was represented by Kirkland & Ellis.

### Court Relies on Dr. Deborah Foster's Analysis in Denying Class Certification in California Wage & Hours Case

Deborah Foster was retained by the defendant in a wage and hour case, *Mkhitarian v. Bank of the West*, in which employees at branches of a California bank alleged that their employer violated California law by "failing to pay them for all hours worked, missed, short, late, and/or interrupted meal periods and/or rest breaks."

### California Court of Appeal Upholds Rounding Case Ruling for Edgeworth Client

Dr. Deborah Foster's declaration and supporting exhibits cited and relied upon by California Court of Appeal.

### Pregnancy Discrimination Class Action

An Edgeworth team analyzed data regarding pregnancy-related leaves of absence and requests for accommodation to address claims against a nationwide retailer.

### Dr. Deborah Foster Testifies on Damages at Arbitration Regarding Claims of Gender Discrimination

The Edgeworth team reviewed the damages calculation provided by the opposing expert and provided a rebuttal report critiquing that analysis and providing alternative calculations.

### Edgeworth Provides Analyses of Rounding Policies in California Court

Dr. Deborah K. Foster was retained as the testifying economist by two California hospitals—both part of the AHMC Hospital System.

### Edgeworth Client Wins California Meal Period Class Action

The Edgeworth team reviewed coded time records to identify shifts where meal period deductions occurred without a recorded meal period and determine whether recorded meal periods were compliant.

### Edgeworth Helps Client Win Summary Judgment in California Rounding Case

Dr. Deborah Foster applied the California overtime rules to the rounded and non-rounded time records. Ultimately, the client won on summary judgment.

### Dr. Deborah Foster Provides Proffered Testimony to US Bankruptcy Court

Dr. Deborah Foster's valuation of claims related to rest breaks and post-shift work time were presented in US Bankruptcy Court in order for a national retailer to receive court approval of a bankruptcy restructuring plan.

#### Edgeworth Provides Analysis of Damages on Behalf of US Restaurant Chain in Labor and Employment Case

An Edgeworth team calculated damages related to constructive discharge and failure to rehire claims. Edgeworth Partner Dr. Deborah K. Foster submitted an expert report in US District Court on behalf of the defendant.

#### Dr. Deborah Foster Testifies on Allegations of Unlawful Termination

Edgeworth Partner Dr. Deborah K. Foster provided deposition testimony in a single plaintiff suit brought against a national automotive parts and repair chain.

#### California Wage and Hours Class Action for a National Retailer

Edgeworth Partner Dr. Deborah K. Foster provided a declaration and deposition testimony in a California class action matter involving meal periods.

#### Age Discrimination Class Action

Edgeworth Partner Dr. Deborah K. Foster analyzed allegations of age discrimination for an alleged class of terminated employees.

## **PUBLICATIONS**

#### Companies Considering Layoffs Face Tradeoff Between Diversity and Experience

*Law360*, 05.01.2020

#### DOL's Overtime Rules: What to Expect for High-Paid Workers

*Law360*, 04.15.2019

#### Primer on Wage Analyses for Antitrust Attorneys: Part 1

*Law360*, 05.23.2018

#### Primer on Wage Analyses for Antitrust Attorneys: Part 2

*Law360*, 05.23.2018

#### DOL White Collar Salary Projections May Rest On Inaccurate Assumptions

*Law360*, 06.17.2016

#### 10 Questions To Ask Experts Working With Your Data

*Law360*, 09.25.2015

#### Flawed Logic Of DOL's Proposed White Collar Salary Test

*Law360*, 08.25.2015

Approaches To Hourly Rates Under DOL White Collar Rules  
*Law360*, 08.14.2015

## **SPEAKING ENGAGEMENTS**

Preparing for Employment Challenges in the COVID-19 World: Key Considerations for Employers  
07.21.2020

Statistics: Oh What Stories Your Data Can Tell | Georgetown Advanced eDiscovery Institute  
Renaissance Washington, DC, 11.21.2019

Wage & Hour Class Actions: Hot Buttons to Watch for in 2016  
06.23.2016

ACI's 27th National Forum on Wage & Hour Claims and Class Actions  
06.02.2016

Preparing for the New DOL White Collar Exemption Rules  
03.08.2016

Webinar - The DOL's White Collar Rule Changes: Implications & Today's Must Dos  
10.29.2015

Webinar - The DOL's White Collar Rule Changes: Implications & Today's Must Dos  
10.27.2015

ACI Wage & Hours Claims and Class Actions San Francisco  
09.28.2015

## **NEWS**

Court Relies on Dr. Deborah Foster's Analysis in Denying Class Certification in California Wage & Hours Case  
01.04.2021

California Court of Appeal Upholds Rounding Case Ruling for Edgeworth Client  
10.16.2019

Edgeworth Analysis Heavily Cited by Judge in California Court  
06.28.2018

Dr. Deborah Foster Joins Edgeworth Economics  
03.16.2015