



# FIRE WATCH

News and developments in employment law and labor relations for California Fire Safety Management.

OCTOBER 2019

## INDEX

Discrimination .....	6
Firm Victories .....	1
Independent Contractors .....	4
Labor Relations .....	5
New Legislation .....	3
Wage & Hour .....	3

## LCW NEWS

Firm Activities .....	10
Firm Publications .....	9
LCW Conference 2020 .....	9
New to the Firm .....	8
Online Harassment Training ...	7
Upcoming Webinar .....	8

*Fire Watch* is published monthly for the benefit of the clients of Liebert Cassidy Whitmore. The information in *Fire Watch* should not be acted on without professional advice.

Los Angeles | Tel: 310.981.2000  
 San Francisco | Tel: 415.512.3000  
 Fresno | Tel: 559.256.7800  
 San Diego | Tel: 619.481.5900  
 Sacramento | Tel: 916.584.7000

©2019 Liebert Cassidy Whitmore  
[www.lcwlegal.com](http://www.lcwlegal.com)

## FIRM VICTORIES

### *LCW Obtains Victory For Agency In Police Officer Termination Appeal.*

LCW Managing Partner [Scott Tiedemann](#) and Associate Attorney [Amit Katzir](#) defeated a former police officer’s lawsuit seeking to overturn his termination.

In this case, an officer injured himself on duty and filed a workers’ compensation claim. The officer signed a waiver allowing the workers’ compensation division to obtain his medical records in order to determine his benefits.

The workers’ compensation division then sent the officer’s medical records to a physician to help them identify a diagnosis. In reviewing these records, the physician discovered that the officer appeared to be taking a large quantity of opiates while employed as an officer and that he had failed to disclose multiple medical injuries on his pre-employment medical history form. The physician was the same person who performed the officer’s pre-employment medical examination. The physician opined, based on what the physician believed was a clear pattern of repeated, heavy opiate use, that the officer could not safely perform the functions of a police officer. The physician reported his opinion to the law enforcement agency.

The agency subsequently initiated an investigation into the officer, and interviewed the physician. Thereafter, the physician prepared two reports for the investigation. The reports outlined the physician’s opinion and provided the underlying medical records. The agency terminated the officer for: omitting information in his pre-employment medical examination; failing to disclose that he was prescribed thousands of opiate painkillers during his employment; and dishonesty in the internal affairs investigation.

After the agency’s legislative body upheld the termination, the officer filed a petition requesting that the Superior Court review the agency’s decision. The officer argued that the physician’s disclosure of his medical records violated his privacy rights, and that the agency should not have considered the medical evidence. The officer argued that the exclusionary rule, which generally applies to illegal searches and seizures in criminal cases, made his medical evidence inadmissible.

The agency argued that its acquisition and use of the medical records was privileged under the Civil Code, and that the exclusionary rule did not apply. While the court declined to address the privilege issue, it determined the agency did not need to exclude the medical records under the exclusionary rule.

The court first noted that there was a real question as to whether the exclusionary rule applied to the officer's appeal hearing before the agency's legislative body. The purpose of that rule is to deter the police from violating the Fourth Amendment prohibition on illegal searches and seizures. Moreover, courts extend the rule to civil proceedings only when the proceedings are so closely related to the aims of criminal prosecution that they are deemed "quasi-criminal."

Here, the court reasoned that the agency did not obtain the records from an illegal search. Instead, the physician lawfully obtained the medical records through the waiver the officer signed. While the physician's decision to turn over the medical records to the agency may have gone beyond the original stated, workers' compensation purpose of the waiver, the court concluded the agency did not receive the medical records through an unlawful search or seizure.

Second, the court reasoned that even if the exclusionary rule applied, it did not prohibit the agency from considering the officer's records. The court noted that when the exclusionary rule applies, courts use a balancing test to determine whether to exclude the evidence. Although the agency used the officer's medical records in the course of its investigation, the court found that the agency was justified in doing so under the circumstances. The physician independently raised concerns about the officer's potential drug use. The agency did not ask the physician to create the reports until after it interviewed the physician, and after the agency had developed the reasonable suspicions that: the officer was using drugs he did not disclose; and that the officer had been untruthful on his pre-employment medical statement.

The officer argued that admitting his lifetime medical history into evidence at the hearing was egregious and shocking. The court disagreed. As a police officer, the officer owed a unique duty of loyalty, trust, and candor to his employer and the public at large. Therefore, when the agency received a credible concern from the physician about the officer's potential drug abuse, the agency had the authority to investigate and discipline a betrayal of that trust.

Thus, the court determined that the agency's legislative body did not abuse its discretion in considering the officer's medical records in terminating the officer.

**NOTE:**

*One of the key points that the court relied upon was that the agency methodically reacted to information it received from the physician through its internal investigation process. The physician provided the department the medical information on his own, the department interviewed the physician, and then the agency developed a reasonable suspicion about the officer's misconduct. The agency's methodical approach gave the court reason to decide that even if the exclusionary rule did apply, the agency acted reasonably and lawfully as to the medical records. Agencies can count on LCW to be a trusted advisor that gives insightful advice throughout an investigation and disciplinary process.*

***LCW Wins Summary Judgment For City In Age Discrimination Action.***

In a case handled by [Jennifer Rosner, Lee Heard](#), and [Emanuela Tala](#), LCW helped secure summary judgment for a city in a firefighter's age discrimination lawsuit.

A firefighter sued the city, alleging that the city failed to promote him to Fire Captain in 2009, 2013, 2015, and 2017 due to his age in violation of the Fair Employment and Housing Act ("FEHA").

On summary judgment, LCW argued on behalf of the city that the statute of limitations barred all claims arising out of promotional decisions occurring before August 27, 2017 – one year prior to the filing of the firefighter's complaint with the Department of Fair Employment and Housing ("DFEH"). Under the FEHA, a person must file a DFEH complaint within one year of the act or omission alleged to constitute discrimination, harassment or retaliation. Except for certain limited circumstances, failure to timely file a DFEH complaint bars a civil action. The court agreed with LCW's argument that no exceptions applied, and held that any promotional decisions that occurred prior to August 27, 2017 could not form the basis for the firefighter's lawsuit.

With regard to promotional decisions that occurred between August 27, 2017 and August 27, 2018, the court agreed that the city had provided legitimate business reasons, that were not pretextual, for promoting other candidates. The court also emphasized that of the 13 individuals promoted between 2013 and 2019, seven were over the age of 40, and 11 outscored the firefighter during the promotional process.

**NOTE:**

*This case illustrates the importance of an in-depth understanding of the FEHA, including its specific procedural requirements, in successfully defending public entities in discrimination actions. This case also illustrates how important it is for a public agency to be able to identify legitimate, non-discriminatory reasons for its employment actions and decisions. LCW is pleased to help the city obtain a complete victory without the need for a trial.*

## WAGE & HOUR

### *New Minimum Salaries Needed To Qualify For FLSA Minimum Wage And Overtime Exemptions.*

The U.S. Department of Labor (“DOL”) announced the final version of its new exemption rule. This DOL regulation increases the salary thresholds that qualify for the “white collar” and “highly compensated employee” exemptions to the Fair Labor Standards Act (“FLSA”).

The FLSA provides “white collar” exemptions for executive, administrative, and professional employees. To qualify under one of these exemptions from the FLSA’s minimum wage and overtime requirements, an employee must first meet the DOL salary basis test. Part of that test is a minimum salary the employee must receive. Since 2004, the salary basis test required the employee to receive a minimum salary of \$455 per week or \$23,660 per year. However, under this new rule, employees must now make \$684 per week or \$35,568 per year to qualify.

The FLSA also provides a “highly compensated employee” exemption, which covers well-paid personnel who perform some managerial duties.

This new rule also increases the highly compensated employee threshold from \$100,000 to \$107,432.

The new salary thresholds will take effect on January 1, 2020. The new DOL regulation does not change the “duties” test, which an employer must also meet to exempt an employee from overtime.

**NOTE:**

*Agencies should evaluate which employees will remain exempt from the FLSA under these new salary thresholds. LCW attorneys can assist agencies in reviewing FLSA compliance, and advising as to any associated collective bargaining duties.*

## NEW LEGISLATION

### *Assembly Bill 392 Redefines When Peace Officers Are Justified To Use Lethal Force.*

On August 19, 2019, California Governor Gavin Newsom signed Assembly Bill 392 (“AB 392”), a bill that redefines when a peace officer’s use of lethal force is justifiable. The goal of the law is to encourage law enforcement to rely more on less-lethal force or de-escalation techniques. The change in the law takes effect on January 1, 2020.

Under the new law, lethal force is only justifiable “when necessary in defense of human life.” Specifically, Penal Code section 835a(c) provides that a peace officer is justified in using deadly force only when the officer reasonably believes, based on the totality of the circumstances, that deadly force is necessary for one of two reasons:

- To defend against an imminent threat of death or serious bodily injury to the officer or another person, or
- To apprehend a fleeing person for any felony that threatened or resulted in serious bodily injury, if the officer reasonably believes that the person will cause death or serious bodily injury to another unless immediately apprehended.

Use-of-force policies and changes required by law generally fall outside the scope of representation defined under the Meyers-Milias-Brown Act (“MMBA”). Therefore, if an agency’s current policies



need to be updated to be consistent with this new law, the agency's MMBA "meet and confer" obligation will be limited to any negotiable impacts of the change in the law that the peace officers' recognized employee organization identifies.

Going forward, agencies should also ensure that future criminal and administrative investigations into use-of-force incidents follow this new law and any related Department policy changes.

**NOTE:**

*Before AB 392 takes effect in January 2020, agencies should review their existing use-of-force policies to verify whether department policy is consistent with the law, and to identify areas that may need revision.*

***Senate Bill 230 Requires Law Enforcement Agencies To Create And Disclose Peace Officer Use Of Force Policies.***

On September 12, 2019, Governor Newsom signed Senate Bill 230 ("SB 230") into law. SB 230 creates Government Code section 7286 to require law enforcement agencies to have a policy regarding a minimum standard for peace officer use of force. Each agency's policy shall include, among other things: the use of de-escalation techniques and other alternatives to force; when to apply deadly force; factors for reporting, evaluating, and reviewing all use-of-force incidents; and when officers may draw a firearm.

Under the new law, agencies must implement their policies by January 1, 2021. The new law also requires agencies to make their use-of-force policies accessible to the public.

SB 230 also creates Penal Code section 13519.10, which requires the Commission on Peace Officer Standards and Training to implement courses for the regular and periodic training of law enforcement officers in the use of force. The new law also requires the Commission to develop uniform, minimum guidelines that law enforcement agencies can use to develop their own use of force policies as required by AB 392/Government Code section 7286.

## INDEPENDENT CONTRACTORS

***Governor Signs AB 5: The "ABC" Test For Independent Contractor Status Is Codified.***

On September 18, 2019, Governor Gavin Newsom signed Assembly Bill No. 5 ("AB 5") into law. AB 5 codifies the "ABC" test for determining independent contractor status that the California Supreme Court adopted in its 2018 decision in *Dynamex Operations West, Inc. v. Superior Court* (2018) 4 Cal.5th 903. AB 5 also expands the ABC test so that it applies not only to the IWC wage orders, but also to the California Labor and Unemployment Insurance Codes.

AB 5 creates Labor Code section 2750.3, which provides that under the Labor Code, the Unemployment Insurance Code, and Industrial Welfare Commission ("IWC") wage orders, an individual providing labor or services for compensation is an employee rather than an independent contractor unless the hiring entity demonstrates that all three of the following conditions are satisfied: (1) the individual is free from the control and direction of the hiring entity in connection with the performance of the work, both under the contract terms and in fact; (2) the individual performs work that is outside the usual course of the hiring entity's business; and (3) the individual is customarily engaged in an independently established trade, occupation, or business of the same nature as the work performed for the hiring entity.

There is no express exemption in AB 5 for public agencies.

Labor Code section 2750.3 does exempt from the ABC test, however, a number of occupations that remain subject to the previous independent contractor test stated in a California Supreme Court case that was decided before *Dynamex*. These exempted occupations include, insurance agents; medical professionals such as physicians, dentists, podiatrists, psychologists, and veterinarians; licensed professionals such as attorneys, architects, engineers, private investigators, and accountants; financial advisers; direct sales salespersons; commercial fisherman; some contracts for professional services

for marketing, human resources administrators, travel agents, graphic designers, grant writers, fine artists, freelance writers, photographers and photojournalists, and cosmetologists; licensed real estate agents; “business service providers”; construction contractors; construction trucking services; referral service providers; and motor club third party agents.

Additionally, AB 5 applies this new Labor Code section 2750.3 to Labor Code section 3351, which relates to employment status for workers’ compensation coverage. This portion of the law is not effective until July 1, 2020.

Finally, AB 5 amends Unemployment Insurance (UI) Code section 621 to incorporate *Dynamex’s* ABC test. But, the UI Code amendment does not reference the occupations that Labor Code section 2750.3 exempts. Thus, those who fall into one of the exemptions in Labor Code section 2750.3 may not be exempt from the provisions of the UI Code unless the conditions of the ABC test are satisfied.

**NOTE:**

*Under AB 5, if an individual is an employee of the agency under the ABC test, then: he or she is eligible for unemployment benefits; and any Labor Code laws applicable to public agency employees, including workers’ compensation coverage and paid sick leave benefits. LCW can assist public agencies to evaluate all independent contractor arrangements under the ABC test and Labor Code section 2750.3.*

## LABOR RELATIONS

### *PERB Directs City To Reinstate Proposal It Withdrew Three Years Earlier.*

The City of Palo Alto and the Utilities Management & Professional Association of Palo Alto (“UMPAPA”) negotiated their initial collective bargaining agreement. Throughout the bargaining, the parties deferred negotiations on non-economic issues. Following the City’s last, best, and final economic proposals, the City proposed that the parties bifurcate economic issues from non-economic issues. This would allow the pay

increases to go into effect while the parties continued to negotiate non-economic terms.

UMPAPA took the City’s economic proposals to its members, who ratified them. After UMPAPA ratified the City’s economic proposals, the City made a non-economic proposal seeking to include an “at-will” provision for eight management positions. After UMPAPA rejected that proposal, the City withdrew the bifurcation plan.

The Administrative Law Judge (“ALJ”) concluded this constituted bad faith bargaining in violation of the Meyer-Milias-Brown Act (MMBA). Neither party excepted to the ALJ’s findings on liability.

However, UMPAPA requested that the Public Employment Relations Board (“PERB”) alter the ALJ’s proposed remedial order, and require the City to reinstate the bifurcation proposal and the related last, best, and final economic proposals that the ALJ had determined were withdrawn in bad faith. Further, UMPAPA requested that PERB amend the proposed order to include an attorney’s fee award.

PERB noted that a properly designed remedial order seeks to restore the situation to what the situation would have been without the unfair labor practice. Thus, PERB directed the City to put the bifurcation proposal and the related last, best, and final economic proposals back on the table if UMPAPA requested. PERB reasoned that reinstating these proposals would restore the situation as nearly as possible to what would have existed but for the City’s withdrawal of the proposals.

However, PERB declined to amend the proposed order to include an attorney’s fee award. To obtain reimbursement of attorney’s fees or other litigation expenses while litigating a matter in front of PERB, the moving party must demonstrate that the claim, defense, motion, or other action was “without arguable merit” and pursued in “bad faith.” PERB reasoned that while the positions taken by the City’s representatives were unsuccessful, they were nonetheless positions that a prudent representative might legitimately take in good faith.

*City of Palo Alto, PERB Decision No. 2664-M (2019).*

**NOTE:**

*This case illustrates PERB's power to determine a remedy. PERB remedies can include reinstating a withdrawn proposal, even if the agency withdrew the proposal years earlier.*

## DISCRIMINATION

### *Title III Of The ADA Applies To Websites Connected To Places Of Public Accommodation.*

Cheryl Thurston is blind and uses screen-reading software to access the Internet and read website content. When Thurston attempted to access the website for a restaurant named "The Whisper Lounge", her software could not read the menu or make reservations. While a non-visually impaired person could make a reservation on the website 24/7, Thurston would have to call the restaurant during business hours to make one.

Thurston filed a complaint against the owner of the restaurant alleging that the inaccessible website violated the Unruh Act. The Unruh Act requires businesses to provide full and equal accommodations, advantages, facilities, privileges, and services. Additionally, the Unruh Act makes any violation of the federal Americans With Disabilities Act ("ADA") a violation of the Unruh Act.

Title III of the ADA provides, "No individual shall be discriminated against on the basis of disability in the full and equal enjoyment of the goods, services, facilities, privileges...of any place of public accommodation . . ." Discrimination includes treating an individual with a disability differently by failing to provide auxiliary aids and services. Further, federal regulations require that a public accommodation "furnish appropriate auxiliary aids and services where necessary to ensure effective communication with individuals with disabilities."

In this case, the California Court of Appeal considered whether Title III of the ADA applied to a website connected to a physical place of public accommodation. While the parties agreed the physical restaurant was a place of public accommodation, the restaurant argued that the ADA did not apply to its website.

The court evaluated the plain language of the ADA and noted that the statute applies to services of a place of public accommodation, not services in a place of public accommodation. Thus, the court noted that Title III of the ADA encompasses more than a physical place. Additionally, the court noted that Congress intended that the ADA "keep pace with the rapidly changing technology of the times." For these reasons, the court concluded the ADA applied to websites connected to a physical place of accommodation. However, the court declined to consider whether Title III of the ADA governs a website unconnected to a physical place of public accommodation offering only purely Internet-based services or products.

While the restaurant argued that its website was not sufficiently connected to its physical restaurant, the court disagreed. The court concluded that because the website connects customers to the services of the restaurant, there is a sufficient nexus between the site and the restaurant. Thus, the Court of Appeal concluded that the ADA applied to the restaurant's website.

*Thurston v. Midvale Corp.*, 2019 WL 4166620 (2019).

**NOTE:**

*This case reaffirms the Ninth Circuit's decision in Robles v. Domino's Pizza LLC that LCW published in the February 2019 Client Update. In Robles, a man who used screen-reading software to access the internet asserted that the Domino's website and smart phone app were inaccessible for visually impaired people. The Ninth Circuit concluded that since the website and app were designed to facilitate access to Domino's products and services, Robles' lawsuit under the ADA could proceed.*



# Announcing LCW's On-Demand Harassment Prevention Training Tool



In 2018, the California legislature passed **SB 1343** expanding the requirement for who has to be trained on sexual harassment issues, largely in response to the #MeToo movement. The law requires employers with **five or more employees** to provide harassment prevention training to **all employees**. Supervisors must receive 2 hours of training every two years or within 6 months of their assumption of a supervisory position. Non-supervisory staff must participate in the **1-hour course every two years**.

If it sounds like a daunting task to get **ALL** of your employees trained, not to fear! LCW has you covered. Leaders in preventative training, we have training programs designed to meet your needs and ensure that your organization remains compliant.

## Online On-Demand Training

- Our engaging, interactive, and informative on-demand training satisfies California's harassment prevention training requirements. This training is an easy-to-use tool that lets your employees watch at their own pace. Our on-demand training has quizzes incorporated throughout to assess understanding and application of the content and participants can download a certificate following the successful completion of the quizzes.
- Our online training allows you to train your entire workforce and provides robust tracking analytics and dedicated account support for you.
- **To learn more about our special organization-wide pricing and benefits, please contact Katie Huber at [khuber@lcwlegal.com](mailto:khuber@lcwlegal.com) or 310.981.2057.**
- Online options are available for both the **Two-Hour Supervisory Training Course** and the **One-Hour Non-Supervisory Training Course**.



The use of this seal confirms that this activity has met HR Certification Institute's® (HRCI®) criteria for recertification credit pre-approval.

Learn more: <https://www.lcwlegal.com/harassment-prevention-training-services>

## NEW TO THE FIRM



**Anni Safarloo** is an Associate in Liebert Cassidy Whitmore's Los Angeles office where she provides representation and counsel to clients in matters pertaining to labor and employment law, business and facilities, and general litigation. Anni has experience representing public agencies in all phases of litigation, especially related to construction delay, extra work and stop notice claims; commercial matters; and code enforcement. She has secured judgments in favor of clients in various code enforcement matters and handles post-judgment remedies. Anni also represents clients in real estate related litigation. She advises clients in various general counseling, pre-litigation and litigation matters.

She can be reached at 310.981.2313 or [asafarloo@lcwlegal.com](mailto:asafarloo@lcwlegal.com).



**Nathan Jackson** is an associate in Liebert Cassidy Whitmore's Sacramento office where he provides representation and counsel to clients in matters pertaining to labor and employment law. Nathan defends cities, counties and special districts against individual and representative claims for discrimination, retaliation, harassment, wrongful termination, breach of contract, and violations of wage and hour laws, including class actions and claims brought under the Private Attorney General Act (PAGA). He also counsels clients regarding sensitive personnel matters.

He can be reached at 916.584.7022 or [njackson@lcwlegal.com](mailto:njackson@lcwlegal.com).



**Richard Shreiba** is an Associate in Liebert Cassidy Whitmore's Fresno office where he provides advice and representation to clients on labor, employment, and business & facilities matters. Richard litigates in both state and federal court and has experience from pre-litigation through trial.

He can be reached at 559.256.7800 or [rshreiba@lcwlegal.com](mailto:rshreiba@lcwlegal.com).

## LCW WEBINAR

### LEGAL AND LEGISLATIVE UPDATE FOR PUBLIC SAFETY



#### Who Should Attend?

Public Safety supervisors, managers and executives, HR Professionals and Risk Managers.

#### Workshop Fee:

Consortium Members: \$75,  
Non-Members: \$150

**Wednesday, November 6, 2019 | 10:00 AM - 11:00 AM**

Every year the Courts and the Legislature create new laws, or new twists on pre-existing laws, that impact public safety employers in significant ways. This one hour webinar will cover new court decisions and legislation that has or will soon take effect that will most significantly impact personnel management in public safety departments in a variety of areas. New laws that will be covered include laws impacting investigation and discipline of personnel, personnel records, disability and retirement and harassment and other civil rights liability issues. Attend this webinar to help you understand and navigate changes to personnel laws that will most impact supervision in management in public safety departments.

**PRESENTED BY  
GEOFFREY S. SHELDON**



**REGISTER TODAY:  
[WWW.LCWLEGAL.COM/](http://WWW.LCWLEGAL.COM/)  
EVENTS-AND-TRAINING**



**NOTICE: We will be publishing Legislative Round Ups next month and will return with our Fire Watch newsletter in December.**

**REGISTRATION  
IS NOW OPEN  
FOR THE**

**LCW**  
**2020**

**Public Sector  
Employment Law  
Annual Conference**

**Hyatt Regency  
San Francisco  
January 22-24, 2020**

**For More Information:**  
[lcwlegal.com/lcw-conference](http://lcwlegal.com/lcw-conference)

**40** years  
1980 - 2020



## FIRM PUBLICATIONS

To view these articles and the most recent attorney-authored articles, please visit: [www.lcwlegal.com/news](http://www.lcwlegal.com/news).

Partner [Peter Brown](#) and Associate [Lisa Charbonneau](#) wrote an article that appeared in the *Daily Journal* titled "DOL may update overtime rate regulations for the first time in 50 years" on September 13, 2019.

Sacramento Partner [Gage Dungy](#) authored an article that appeared in the *Daily Journal*, "A Recap of New Employer Requirements as Cleanup Bill Passes," discussing recent legislation passed in California amending SB 1343 harassment training requirements on September 23, 2019.

## MANAGEMENT TRAINING WORKSHOPS

## Firm Activities

Consortium Training

- Oct. 9      **“The Art of Writing the Performance Evaluation”**  
San Diego Fire Districts | San Diego | Kevin J. Chicas
- Oct. 10     **“Technology & Employee Privacy”**  
Bay Area ERC | Webinar | Che I. Johnson
- Oct. 10     **“Maximizing Supervisory Skills for the First Line Supervisor”**  
East Inland Empire ERC | Fontana | Kristi Recchia
- Oct. 10     **“Technology & Employee Privacy”**  
San Mateo County ERC | Webinar | Che I. Johnson
- Oct. 10     **“The Future is Now - Embracing Generational Diversity and Succession Planning” & “Iron Fists or Kid Gloves: Retaliation in the Workplace”**  
Ventura/Santa Barbara ERC | Camarillo | Christopher S. Frederick
- Oct. 16     **“Labor Negotiations from Beginning to End” & “Leaves, Leaves and More Leaves”**  
San Gabriel Valley ERC | Alhambra | T. Oliver Yee
- Oct. 17     **“Case Study for Managing Illnesses or Injuries” & “Preventing Workplace Harassment, Discrimination and Retaliation”**  
Coachella Valley ERC | Palm Desert | Ronnie Arenas
- Oct. 17     **“Preventing Workplace Harassment, Discrimination & Retaliation”**  
Orange County Consortium | Buena Park | Laura Drottz Kalty
- Oct. 23     **“Nuts & Bolts: Navigating Common Legal Risks for the Front Line Supervisor” & “Leaves, Leaves and More Leaves”**  
NorCal ERC | Danville | Kelly Tuffo
- Oct. 24     **“Maximizing Supervisory Skills for the First Line Supervisor Part Two”**  
LA County Human Resources Consortium | Los Angeles | Elizabeth T. Arce
- Oct. 24     **“An Agency’s Guide to Employee Retirement” & “Exercising Your Management Rights”**  
Mendocino County ERC | Ukiah | Erin Kunze
- Nov. 5      **“Supervisor’s Guide to Public Sector Employment Law” & “Managing the Marginal Employee”**  
North San Diego County ERC | San Marcos | Stefanie K. Vaudreuil
- Nov. 6      **“Public Service: Understanding the Roles and Responsibilities of Public Employees” & “Maximizing Performance Through Evaluation, Documentation and Corrective Action”**  
Central Coast ERC | Atascadero | Tony G. Carvalho & Shelline Bennett
- Nov. 7      **“Advanced Investigations of Workplace Complaints” & “Conducting Disciplinary Investigations: Who, What, When and How”**  
Bay Area ERC | Union City | Morin I. Jacob
- Nov. 7      **“Prevention and Control of Absenteeism and Abuse of Leave” & “Workplace Bullying: A Growing Concern”**  
East Inland Empire ERC | Fontana | Danny Y. Yoo

- Nov. 7 **“Workplace Bullying: A Growing Concern” & “Conducting Disciplinary Investigations: Who, What, When and How”**  
Napa/Solano/Yolo ERC | Fairfield | Kristin D. Lindgren
- Nov. 7 **“Public Sector Law Employment Update”**  
Orange County Consortium | Brea | Geoffrey S. Sheldon
- Nov. 7 **“Maximizing Performance Through Evaluation, Documentation and Corrective Action” & “Prevention and Control of Absenteeism and Abuse of Leave”**  
San Diego ERC | San Marcos | Stacey H. Sullivan
- Nov. 7 **“Nuts & Bolts: Navigating Common Legal Risks for the Front Line Supervisor”**  
San Mateo County ERC | Webinar | Suzanne Solomon
- Nov. 13 **“Preventing Workplace Harassment, Discrimination and Retaliation”**  
Humboldt County ERC | Arcata | Casey Williams check with fran
- Nov. 14 **“Difficult Conversations”**  
Humboldt County ERC | Arcata | Casey Williams
- Nov. 14 **“Key Legal Issues for Supervisors: Absenteeism, Disability and Labor”**  
South Bay ERC | Beverly Hills | Laura Drottz Kalty & Antwoin D. Wall
- Nov. 14 **“Navigating the Crossroads of Discipline and Disability Accommodation” & “Family and Medical Care Leave Acts”**  
West Inland Empire ERC | San Dimas | Mark Meyerhoff
- Nov. 21 **“Difficult Conversations”**  
Gateway Public ERC | Long Beach | Christopher S. Frederick
- Nov. 21 **“Maximizing Performance Through Evaluation, Documentation and Corrective Action”**  
LA County Human Resources Consortium | Webinar | Mark Meyerhoff
- Nov. 27 **“Maximizing Performance Through Evaluation, Documentation and Corrective Action” & “Difficult Conversations”**  
North State ERC | Redding | Jack Hughes

### **Customized Training**

Our customized training programs can help improve workplace performance and reduce exposure to liability and costly litigation. For more information, please visit [www.lcwlegal.com/events-and-training/training](http://www.lcwlegal.com/events-and-training/training).

- Oct. 8,10 **“Preventing Workplace Harassment, Discrimination and Retaliation and Performance Evaluations”**  
San Ramon Valley Fire Protection District | San Ramon | Amy Brandt
- Oct. 7 **“Preventing Workplace Harassment, Discrimination and Retaliation”**  
Port of San Diego | San Diego | Stefanie K. Vaudreuil & Frances Rogers
- Oct. 8 **“The Future is Now - Embracing Generational Diversity & Succession Planning”**  
City of Glendale | Jennifer Palagi
- Oct. 8,9 **“Preventing Workplace Harassment, Discrimination and Retaliation”**  
El Dorado County | Placerville | Kristin D. Lindgren



Oct. 8	<b>“Preventing Workplace Harassment, Discrimination and Retaliation”</b> Mesa Water District   Costa Mesa   Christopher S. Frederick
Oct. 9,22	<b>“Preventing Workplace Harassment, Discrimination and Retaliation”</b> City of Glendale   Laura Drottz Kalty
Oct. 9,10	<b>“Performance Management and Evaluation Process”</b> Mendocino County   Ukiah   Jack Hughes
Oct. 9,10	<b>“Maximizing Performance Through Documentation, Evaluation and Corrective Action and The Art of Writing the Performance Evaluation”</b> Mendocino County   Ukiah   Jack Hughes
Oct. 10,17,23	<b>“Preventing Workplace Harassment, Discrimination and Retaliation”</b> Port of San Diego   San Diego   Stacey H. Sullivan
Oct. 14,17	<b>“Preventing Workplace Harassment, Discrimination and Retaliation”</b> Chino Valley Fire District   Chino   Christopher S. Frederick
Oct. 14	<b>“ADA and Ethics in Public Service”</b> Humboldt County   Eureka   Jack Hughes
Oct. 14	<b>“Preventing Workplace Harassment, Discrimination and Retaliation”</b> Port of San Diego   San Diego   Kevin J. Chicas
Oct. 15	<b>“Skelly Procedures”</b> Los Angeles Homeless Services Authority   Los Angeles   T. Oliver Yee
Oct. 15	<b>“Preventing Workplace Harassment, Discrimination and Retaliation”</b> West Valley Water District   Rialto   Jenny Denny
Oct. 16	<b>“Preventing Workplace Harassment, Discrimination and Retaliation”</b> Chino Valley Fire District   Chino   Jenny Denny
Oct. 18,24	<b>“Preventing Workplace Harassment, Discrimination and Retaliation and Performance Evaluations”</b> San Ramon Valley Fire Protection District   San Ramon   Austin Dieter
Oct. 21	<b>“Preventing Workplace Harassment, Discrimination and Retaliation”</b> City of Lodi   Gage C. Dungy
Oct. 22	<b>“Courageous Authenticity and Conflict Resolution”</b> CalOptima   Orange   Kristi Recchia
Oct. 22	<b>“Preventing Workplace Harassment, Discrimination and Retaliation and Leaves, Leaves and More Leaves”</b> Riverside County District Attorney’s Office   Riverside   J. Scott Tiedemann
Oct. 22	<b>“Finding the Facts-Employee Misconduct &amp; Disciplinary Investigations”</b> Sanitation Districts of Los Angeles County   Whittier   T. Oliver Yee
Oct. 23	<b>“Preventing Workplace Harassment, Discrimination and Retaliation”</b> City of Rialto   James E. Oldendorph
Oct. 23	<b>“Preventing Workplace Harassment, Discrimination and Retaliation”</b> Mariposa County   Mariposa   Che I. Johnson

Oct. 24	<b>“Preventing Workplace Harassment, Discrimination and Retaliation”</b> City of Carlsbad   Stephanie J. Lowe
Oct. 24	<b>“Preventing Workplace Harassment, Discrimination and Retaliation”</b> City of Los Banos   Che I. Johnson
Oct. 24	<b>“Preventing Workplace Harassment, Discrimination and Retaliation”</b> City of Rialto   Alison R. Kalinski
Oct. 28	<b>“Preventing Workplace Harassment, Discrimination and Retaliation”</b> City of Menlo Park   Heather R. Coffman
Oct. 29	<b>“Preventing Workplace Harassment, Discrimination and Retaliation and Mandated Reporting”</b> East Bay Regional Park District   Oakley   Erin Kunze
Oct. 30	<b>“Managing the Marginal Employee and Creating a Positive Workplace Culture with Communication, Conflict Resolution &amp; Civility”</b> City of Colton   Kristi Recchia
Oct. 30	<b>“Preventing Workplace Harassment, Discrimination and Retaliation”</b> City of Mountain View   Lisa S. Charbonneau
Oct. 30	<b>“Unconscious Bias”</b> County of San Luis Obispo   San Luis Obispo   James E. Oldendorph
Oct. 30	<b>“Principles for Public Safety Employment and 12 Steps to Avoiding Liability”</b> Los Angeles County   Los Angeles   J. Scott Tiedemann
Nov. 1,6,22	<b>“Preventing Workplace Harassment, Discrimination and Retaliation”</b> City of Gilroy   Gage C. Dungy
Nov. 4,5	<b>“Preventing Workplace Harassment, Discrimination and Retaliation”</b> City of Ventura   Shelline Bennett
Nov. 4,8,12	<b>“Preventing Workplace Harassment, Discrimination and Retaliation”</b> El Dorado Hills Fire Department   El Dorado Hills   Kristin D. Lindgren
Nov. 4,5	<b>“Preventing Workplace Harassment, Discrimination and Retaliation”</b> Irvine Ranch Water District   Irvine   Christopher S. Frederick
Nov. 6	<b>“Preventing Workplace Harassment, Discrimination and Retaliation”</b> City of Fremont   Jack Hughes
Nov. 6	<b>“Preventing Workplace Harassment, Discrimination and Retaliation”</b> City of Menlo Park   Kelsey Cropper
Nov. 6	<b>“Preventing Workplace Harassment, Discrimination and Retaliation and Mandated Reporting”</b> East Bay Regional Park District   Oakland   Erin Kunze
Nov. 6	<b>“Preventing Workplace Harassment, Discrimination and Retaliation”</b> Mariposa County   Mariposa   Michael Youril
Nov. 6	<b>“Preventing Workplace Harassment, Discrimination and Retaliation”</b> West Basin Municipal Water District   Carson   Jenny-Anne S. Flores

- Nov. 12      **“Legal Aspects of Violence in the Workplace”**  
City of Glendale | Mark Meyerhoff
- Nov. 13      **“Preventing Workplace Harassment, Discrimination and Retaliation”**  
Port of Stockton | Stockton | Jack Hughes
- Nov. 14      **“Implicit Bias”**  
Town of Truckee | Truckee | Kristin D. Lindgren

#### Speaking Engagements

- Oct. 17      **“#MeToo2.0: A Guide to Help Navigate New Workplace Harassment Laws”**  
League of California Cities 2019 Annual Conference | Long Beach | J. Scott Tiedemann
- Oct. 18      **“AB 1661 Sexual Harassment Prevention Training”**  
League of California Cities 2019 Annual Conference | Long Beach | Christopher S. Frederick
- Oct. 18      **“Labor and Employment Litigation Update”**  
League of California Cities 2019 Annual Conference | Long Beach | Suzanne Solomon
- Oct. 18      **“Walking the Tightrope: Recognizing, Addressing and Accommodating Mental Illnesses & Disabilities”**  
League of California Cities 2019 Annual Conference | Long Beach | Jennifer Rosner
- Oct. 23      **“Hiring the Best: How to Recruit, Hire and Promote The Right People for Your Organization”**  
Fire Districts Association of California (FDAC) Leadership Academy | Sacramento | Jack Hughes
- Oct. 23      **“FLSA - Police & Fire Issues”**  
National Public Employer Labor Relations Association (NPELRA) | Webinar | Lisa S. Charbonneau
- Nov. 20      **“Exploring the Challenges of Disability Retirements (Both Industrial and Non-Service Based)”**  
CALPELRA 2019 Annual Training Conference | Monterey | Jennifer Rosner & Marguerite Malloy
- Nov. 20      **“FLSA for Labor Negotiators”**  
CALPELRA 2019 Annual Training Conference | Monterey | Richard Bolanos & Peter J. Brown
- Nov. 20      **“Labor Relations Game Show!”**  
CALPELRA 2019 Annual Training Conference | Monterey | J. Scott Tiedemann & Laura Drottz Kalty
- Nov. 21      **“Best Practices to Managing Ever-Changing (And Increasing!) Pension Costs”**  
CALPELRA 2019 Annual Training Conference | Monterey | Steven M. Berliner & Monica Irons
- Nov. 21      **“New Governor, New Trends for Labor and Employment Legislation? An Overview of Governor Newsom’s First Legislative Session”**  
CALPELRA 2019 Annual Training Conference | Monterey | Gage C. Dungy & Dillon Gibbons
- Nov. 21      **“PERB Charges During Bargaining: What to Do?”**  
CALPELRA 2019 Annual Training Conference | Monterey | Che I. Johnson & Frances Rogers
- Nov. 22      **“CALPELRA Sparks: Navigating And Negotiating Health Benefits”**  
CALPELRA 2019 Annual Training Conference | Monterey | Peter J. Brown & Kristi Recchia

#### Seminars/Webinar

For more information and to register, please visit [www.lcwlegal.com/events-and-training/webinars-seminars](http://www.lcwlegal.com/events-and-training/webinars-seminars).



- Oct. 8           **“10 Problems You May Have With CalPERS, and How to Fix Them”**  
Liebert Cassidy Whitmore | Webinar | Michael Youril
- Oct. 8,9       **“2-Day FLSA Academy”**  
Liebert Cassidy Whitmore | Citrus Heights | Richard Bolanos & Lisa S. Charbonneau
- Oct. 9           **“Costing Labor Contracts”**  
Liebert Cassidy Whitmore | Poway | Peter J. Brown & Kristi Recchia
- Oct. 17         **“Bargaining Over Benefits”**  
Liebert Cassidy Whitmore | Suisun City | Steven M. Berliner & Kristi Recchia
- Oct. 17         **“AB 5 Webinar”**  
Liebert Cassidy Whitmore | Webinar | T. Oliver Yee
- Oct. 30         **“Nuts & Bolts of Negotiations”**  
Liebert Cassidy Whitmore | East Garrison | Richard Bolanos
- Nov. 6          **“Legal and Legislative Update for Public Safety”**  
Liebert Cassidy Whitmore | Webinar | Geoffrey S. Sheldon
- Nov. 14         **“Communication Counts!”**  
Liebert Cassidy Whitmore | Alhambra | Peter J. Brown & Kristi Recchia



**Fire Watch**, is available via email. If you would like to be added to the email distribution list or If you know someone who would benefit from this publication, please visit [www.lcwlegal.com/news.aspx](http://www.lcwlegal.com/news.aspx).

**Please note:** By adding your name to the e-mail distribution list, you will no longer receive a hard copy of **Fire Watch**. If you have any questions, call Jaja Hsu at 310.981.2091 or [jhsu@lcwlegal.com](mailto:jhsu@lcwlegal.com).

**LCW** LIEBERT CASSIDY WHITMORE

6033 West Century Blvd., 5th Floor | Los Angeles, CA 90045

 [CalPublicAgencyLaborEmploymentBlog.com](http://CalPublicAgencyLaborEmploymentBlog.com) |  @lcwlegal

Copyright © 2019 **LCW** LIEBERT CASSIDY WHITMORE

Requests for permission to reproduce all or part of this publication should be addressed to Cynthia Weldon, Director of Marketing and Training at 310.981.2000.

*Fire Watch* is published monthly for the benefit of the clients of Liebert Cassidy Whitmore. The information in *Fire Watch* should not be acted on without professional advice. To contact us, please call 310.981.2000, 415.512.3000, 559.256.7800, 619.481.5900 or 916.584.7000 or e-mail [info@lcwlegal.com](mailto:info@lcwlegal.com).