LIEBERT CASSIDY WHITMORE

EDUCATION MATTERS

News and developments in education law, employment law and labor relations for School and Community College District Administration

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INDEX

LCW NEWS

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ACCREDITATION

Accrediting Agency Must Establish And Apply Review Procedures That Comply With Due Process; Agency Does Not Act Arbitrarily And Capriciously When It Simultaneously Reaffirms University's Accreditation And Imposes Probation.

The Council on Chiropractic Education, Inc. accredited chiropractic doctoral degree programs in the United States. National University of Health Sciences ran a program accredited by CCE. When the University sought reaffirmation of its accreditation in 2016, CCE concluded in 2017 that the University was not fully compliant with all accreditation standards but, nonetheless, CCE reaffirmed the University's accreditation. At the same time, CCE notified the University it was placing its program on probation. The University filed an administrative appeal of the probation with the CCE appeals panel, but CCE denied the appeal. The University then filed a complaint in federal trial court, arguing CCE violated its due process rights, and asking the trial court to issue an injunction preventing CCE from imposing the probation. The trial court denied the University's request, and the University appealed to the U.S. Court of Appeals.

An accrediting agency such as CCE must comply with 20 U.S.C. § 1099b to maintain recognition by the U.S. Secretary of Education. The statute required CCE to consistently and evenhandedly apply and enforce standards of accreditation and afford due process to the programs it accredited. Consistent with the statute, CCE adopted and published accreditation standards.

The University admitted it did not comply with two standards at the time CCE reaffirmed the University's accreditation. However, the University asserted CCE violated its due process rights when CCE imposed probation on the University because the standards did not permit CCE to grant reaffirmation of accredited status and impose probation at the same time.

The University did not identify any standard specifically prohibiting CCE from placing a program on probation at the same time it reaffirmed accreditation. CCE standards set out a list of accreditation actions that CCE may take "at any time." This list included reaffirming accreditation and imposing probation. Further, another standard permitted CCE to take any of the following actions against a program that was not in compliance with all the standards: (1) issue a warning, (2) place the program on probation, or (3) require the program to show cause why its accreditation should not be revoked. Because the standards contemplated that a program could remain accredited even if it was not fully in compliance with all accreditation standards, CCE did not act arbitrarily and capriciously when it simultaneously reaffirmed the University's accreditation and imposed probation.

An accrediting agency such as CCE must also establish and apply review procedures that complied with due process. This included providing written notice of any deficiencies identified, providing an opportunity for a program to provide a written response regarding any deficiencies, and concerning the written response before imposing any adverse action. Here, the University argued CCE imposed probation without first providing written notification of any deficiencies

and without providing the University an opportunity to submit a written response. Specifically, the University argued CCE did not provide it written notification prior to issuing a letter on February 2, 2018, notifying the University that CCE was placing it on probation.

However, the February 2, 2018, letter only contained CCE's conclusion that the University did not comply with CCE standard and probation was appropriate. CCE did not take any action against the University on that date. Instead, CCE did not change the University's probationary status until after the University exhausted the CCE appeal process.

Furthermore, the University had the opportunity respond in writing to the CCE site team's final report that identified compliance deficiencies. CCE and University representatives also discussed the areas of concern identified by the site team at a status review meeting. Additionally, CCE notified the University in writing of its conclusion that probation was appropriate and have the University the opportunity to appeal that proposed action before it became final. The record showed CCE adequately apprised the University of its concerns regarding noncompliance and provided the University with multiple avenues to advocate for its position. Thus, CCE's decision to impose probation was not arbitrary and capricious and did not violate CCE's obligation to apply review procedures consistent with due process.

Accordingly, the Ninth Circuit Court of Appeals affirmed the trial court's conclusion that CCE did not violate the University's due process rights by (1) imposing a sanction of probation while contemporaneously reaffirming the University's accreditation status and (2) providing the University with notice and opportunity to respond to identified deficiencies in the manner described.

Nat'l Univ. of Health Scis. v. Council on Chiropractic Educ., Inc. (2020) 980 F.3d 679.

UNRUH ACT

Public School Districts Are Not "Business Establishments" For Purposes Of Unruh Civil Rights Act.

A minor student filed a lawsuit against West Contra Costa Unified School District alleging the District violated the Unruh Civil Rights Act by engaging in disability discrimination against him. The trial court ruled that the Act did not apply to a public school district, because public school districts were not "business establishments" subject to the Act. Specifically, the trial court held that while other state and federal anti-discrimination statutes apply to public school districts, the Act did not because as a governmental entity, carrying out a core governmental task (providing free public education to the children who reside in its geographic area), a public school district was not a privately owned business enterprise that would otherwise be subject to the Act. The student appealed.

On the appeal, the parties asked the Court of Appeal to decide two issues: (1) whether a public school district was a business establishment for purposes of the Act, and (2) even if a school district was not a business establishment, whether it could nevertheless be sued under the Act where the alleged discriminatory conduct was actionable under the Americans With Disabilities Act.

Because the California Supreme Court never considered whether a government entity was a business establishment within the meaning of the Act, the Court of Appeal examined the historical origin of the Act, the Act's legislative history, previous Supreme Court decisions, and other pertinent authorities.

The Court of Appeal noted that the State's early anti-discrimination laws acted to prohibit private citizens and enterprises from discriminating based on race in the operation of public accommodations, conveyances, and public amusement. Nothing in the historical context from which the Act emerged suggested the state legislature enacted early anti-discrimination laws to reach "state action."

The Court of Appeal also closely examined the legislative history of the Act. The Court found prior versions of the bill reflected a progressive narrowing of the legislation's applicability to "schools." The legislation as introduced referred to "schools," but the final bill included only schools that "primarily offered business or vocational training." While public secondary schools may offer some business or vocational training, the Court of Appeal held the primary responsibility of both primary and secondary public schools was basic educational instruction. Thus, the Court of Appeal found nothing in the Act's legislative history that suggested the legislature intended the Act to reach discriminatory conduct by state agents, such as public school districts.

Next, the Court of Appeal examined California Supreme Court precedent. First, the Court found that previous California Supreme Court decisions supported the idea that the state's anti-discrimination laws were directed at private, rather than state, conduct. Second, many of the Supreme Court's reasons for why it determined private entities were "business establishments" under the Act

did not pertain to public school districts. In other words, the "overall function" of a public school district was not to "enhance" its "economic value" as was the case for entities the Supreme Court found to be a business establishment under the Act. Accordingly, the Court of Appeal concluded the decisions of the California Supreme Court confirmed California's public school districts were not business establishments under the Act. The Court of Appeal also determined this conclusion was consistent with decisions by other Courts of Appeal in the State.

The student also tried to argue Education Code Section 201 demonstrated that California public school districts were business establishments under the Act. Education Code Section 201 is part of an extensive array of anti-discrimination statutes applicable to any public or private educational institution that received state funding. The Court of Appeal found the legislative history of the Education Code did not support the student's argument. Additionally, the language of Education Code Section 201 did not say public school districts were business establishments under the Act. Rather, it stated the Education Code anti-discrimination statutes are to be applied "as consistent with" a number of anti-discrimination laws, including the Act, "except where" the Education Code anti-discrimination statutes "may grant more protections or impose additional obligations..." (Ed. Code, § 201, subd. (g).) Here, the Education Code provided more protections than the Act.

Lastly, the student alternatively argued that even if a public school district was not a business establishment under the Act, it nevertheless can be sued for disability discrimination under the Act by virtue of Civil Code Section 51, subdivision (f). However, the Court of Appeal concluded this statute made explicit that any violation of the Americans with Disabilities Act by a business establishment is also a violation of the Act. The Court of Appeal found no indication the Legislature intended, as to disability discrimination only, to transform the Act into a general anti-discrimination statute making any violation of the ADA by any person or entity a violation of the Act. On the contrary, throughout the legislative process, the legislature consistently described the Act as prohibiting discrimination by business establishments.

Ultimately, the Court of Appeal denied the student's appeal and upheld the trial court's ruling.

Brennon B. v. Superior Court of Contra Costa Cty. (2020) 57 Cal. App.5th 367.

FIRM VICTORIES

Court Upholds Two Peace Officer Terminations Following Use Of Excessive Force.

LCW Partner Scott Tiedemann and Associate Attorneys Paul Knothe and Donald Le successfully represented a city in a termination appeal involving two peace officers.

On July 5, 2011, multiple officers responded to a report that a man was checking car doors in a parking lot. At first, the man complied with the officers' requests to sit on the curb and to allow them to search his backpack. The interaction devolved into a struggle between the man and three police officers after the man began to resist. During the struggle, the officers swung their batons, struck the man multiple times, and applied prolonged pressure to his body. One officer deployed his taser against the man before using the taser to strike the man in the head multiple times. The man's condition worsened and he died at the hospital several days later.

The city retained an outside agency to investigate the incident. Based on the investigation findings, the chief of police terminated the three involved officers. Two of the officers sought administrative review before separate hearing officers. These two hearings yielded opposite results: one hearing officer recommended that city council uphold the discharge; and the other recommended that city council reverse the discharge.

Ultimately, the city council unanimously upheld the discharge of both officers based in part on a finding that they used excessive force in violation of city policies. The city council found that one of the officers used excessive force when he swung his baton at the man, struck the man in the head multiple times, and applied prolonged body pressure while the man was struggling on the ground. The city council found that the second officer used excessive force when he twice struck the man's head with his knee and repeatedly beat the man's face with a taser.

The two officers then went to court to file petitions for administrative writs of mandamus. The trial court confirmed the city council's decision to terminate both officers. The evidence established that both officers used excessive force. The findings of excessive force supported the city council's decision to uphold the terminations.

The court examined the excessive force findings as to each officer in light of the department's use of force policies. As to the first officer, the court found that swinging a baton at the man was not excessive force; rather it was reasonable conduct to control the man's resistance and to prevent him from escaping. The court

also found there was no evidence that the officer struck the man in the head. However, the court found the officer did use excessive force by applying prolonged body pressure to the man because the man informed the officers 10 times he could not breathe and then became unconscious. Given this finding and the public nature of the incident, the court found that the city council did not abuse its discretion in discharging the officer for excessive force.

As to the second officer, the court found that the evidence showed excessive force. The officer repeatedly beat the man's face with a taser, even though the man was not being aggressive either before or during the tasing that preceded the beating. Given the city's significant interest in maintaining a level of trust between peace officers and the public, the court found that the city council did not abuse its discretion in discharging the second officer for excessive force. Due to this finding, the court did not examine whether the second officer also used excessive force by kneeing the man in the head twice.

For these reasons, the court denied both officers' petitions and confirmed the city council's discharge of both officers.

NOTE:

> *The use of force at issue in this case was highly publicized and publicly criticized. LCW is proud to have served as a trusted advisor to the department in making successful disciplinary determinations under these intense circumstances.*

Peace Officer's Termination Upheld Following Multiple Uses of Excessive Force.

LCW Partner Jack Hughes and Associate Attorneys Brian Hoffman and Savana Manglona successfully represented a city in a peace officer's termination appeal. The officer violated the police department's use of force policies when he placed his hand around a suspect's throat.

In 2017, a peace officer was involved in three separate use of force incidents. The first occurred when the officer punched a suspect in the head with a closed-fist after the officer perceived the suspect was resisting arrest. The second occurred when the officer punched a suspect in the head after the suspect refused to exit a house. After reviewing both incidents, the department found that the officer did not use the most appropriate force, and decided not to discipline the officer. Instead, the department required the officer to attend a one-on-one refresher training on the department's use of force policies. In May 2017, the department's sergeant and primary use of force instructor administered the refresher training. The sergeant explained less extreme use of force techniques that the officer could use. Approximately three months later, the officer was involved in third use of force. He slapped a suspect several times after the suspect resisted handcuffs. During the incident, the officer complained over body worn camera that the slaps were "weak and crappy" and he preferred to punch the suspect in the face. The sergeant later met with the officer to discuss those comments and advised that while the officer was not subject to discipline, his comments were inappropriate and unprofessional.

In March 2018, the officer was involved in another use of force incident. He placed his hand on a handcuffed suspect's throat, under the chin, using a C-clamp chokehold. A C-clamp chokehold occurs when an officer grabs a suspect by the front of the neck with his hand cupped in the shape of a "C." The officer then squeezes in a clamp-style motion. The department does not teach the C-clamp chokehold because of the heightened risk of serious bodily injury. When the officer used a C-clamp chokehold on the suspect, the suspect reacted with loud choking sounds and yelled, "You're choking me!" and "I can't breathe!" several times. Eventually, other officers placed the suspect in a full-body restraint system to prevent the suspect from moving. The suspect later asked the officer, "You like choking people, huh?" The officer responded, "When they need it." The officer's body camera footage captured this incident. After conducting its use of force review, the city immediately placed the officer on administrative leave.

The city conducted an internal affairs investigation into the officer's use of force. The city determined the officer violated the department's conduct and use of force policies and terminated him. The officer appealed. The officer persistently denied any wrongdoing, including squeezing the suspect's throat or applying any pressure on the suspect's airway.

After a five-day appeal hearing, the Administrative Law Judge (ALJ) found that the level of force the officer used was excessive and improper. The ALJ also found the officer's conduct did not comply with the department's policy and training on use of force. The videos from the officer's body camera showed the officer placing his hand on the suspect's throat more than once, and the suspect instantly choking or gagging. Other officers at the scene also said the officer placed his hands over the suspect's throat and applied pressure. Finally, the officer's comment to the suspect that he only choked people "when they need it" acknowledged his use of force. The ALJ found the department did not abuse its discretion in terminating the officer. This was not an isolated incident, but was the officer's fourth

questionable use of force in just over a year. Moreover, the officer's comments indicated an inability to be rehabilitated.

NOTE:

This case illustrates how conducting a thorough investigation and building a solid administrative record helps to protect a city's final disciplinary ruling from a court challenge. Agencies can count on LCW to be a trusted advisor throughout a peace officer investigation, discipline, and legal challenges.

DISCIPLINE

Sheriff's Termination Appeal Was No Longer Viable After Disability Retirement.

Martin Diero began working for the Los Angeles County Sheriff's Department in 1997. Diero was injured on duty on May 30, 2012, and he continued to work through October 3, 2013, after which he had the first of two surgeries. Diero was not able to return to work following his surgery, and he remained on leave thereafter.

On May 1, 2015, Diero applied to the Los Angeles County Employees Retirement Association (LACERA) for a service-connected disability retirement. Two months later, and before LACERA approved Diero's retirement application, the Department issued Diero a Notice of Intent to Terminate his employment for bringing discredit to him and the Department. After a pre-disciplinary meeting, the Department notified Diero it was terminating his employment effective August 12, 2015. Diero timely appealed the discharge to the Civil Service Commission (Commission), which referred the matter to a hearing officer.

A few months later, while the disciplinary proceedings were pending, LACERA granted Diero's application for a service-connected disability retirement. LACERA later issued a notice to Diero stating that the effective date of his retirement was August 13, 2015, the day after his discharge. Despite having retired, Diero and the Department participated in hearings on Diero's appeal of his discharge. The hearing officer ultimately recommended that Diero's discipline be reduced to a 30-day suspension, and the Commission's agenda included a proposed decision to accept the recommendation.

The Department later filed a motion to dismiss the appeal on the grounds that Diero had retired, and therefore, the Commission lacked jurisdiction over any appeal relating to his employment. The Commission granted the motion, and Diero filed a petition for writ of mandate seeking trial court review of the decision. In the writ petition, Diero asserted, for the first time, that if he were to prevail in his disciplinary appeal and be reinstated, any retroactive salary would change his disability retirement pension. The trial court denied the petition.

On appeal, the court determined that the Commission properly dismissed Diero's appeal. The court reasoned that the Commission's jurisdiction derives from the County's Charter, which defines an employee as "any person holding a position in the classified service of the county." Relying on this language and on previous decisions, the court concluded that Commission has no jurisdiction to order reinstatement or any form of wage relief, to a retired person whose "future status as an employee by definition is no longer at issue." The court affirmed the trial court's decision and awarded the Department its costs on appeal.

Deiro v. Los Angeles Cty. Civil Serv. Comm'n (2020) *56 Cal.App.5th 925.*

NOTE:

This case shows that timing is everything. Local rules may prevent an employee from appealing discipline after the date of disability retirement.

Lease-Leaseback Arrangements Must Be Genuine; Otherwise, a Contractor May Face Disgorgement of Monies Even After Project Completion.

A common method of California public school districts to award contracts for new construction and improvements to existing facilities is the lease-leaseback method. Authorized under Education Code section 17406, the lease-leaseback method permits builder-financed construction. A school district leases land to a contractor who constructs or improves a facility on the leased land. After the construction is complete, the contractor leases the facility back to the school district until the district's lease payments are fully paid. This method of contracting allows districts to pay contractors over the term of the lease, which is generally for a significant period and exempts the construction from the competitive bidding process.

In February 2012, Fresno Unified School District's (District) governing board adopted a resolution authorizing the execution of lease-leaseback construction contracts with Harris Construction, Co. (Contractor) for the construction of a new middle school campus. The District characterized the construction project as a "lease-leaseback project." The construction contracts allowed

the District to make progress payments to the Contractor for services performed during construction. Once the project was complete, the Contractor's lease terminated and titled reverted to the District. The lease was in effect only during the construction of the facilities, and the funds the District paid to the Contractor were only for services performed by the Contractor.

In November 2012, Stephen Davis (Davis) sued the District and the Contractor challenging the propriety of the lease-leaseback project because the entirety of the District's lease payments occurred while the Contractor built the project and thus, there was no true lease of a facility since it was under construction. Thus, Davis argued the District and the Contract violated competitive bidding laws and requested disgorgement of the monies received by the Contractor back to the District.

The District and the Contractor challenged Davis's complaint arguing there were no legal grounds for Davis's claims. The trial court sustained the challenge and entered judgment in favor of the District and the Contractor. Davis appealed. In *Davis v. Fresno Unified School District* (2015) 237 Cal.App.4th 261 (Davis I), the Court of Appeal held that the District's lease-leaseback arrangement was more akin to a traditional construction contract, and not a lease. The payment schedule aligned with progress for construction services; whereas, under a lease, payments are for a set time. Because the contract was for "construction services" and not a genuine lease-leaseback as a method of financing, the *Davis I* court declared the construction contracts invalid and remanded the case back to the trial court.

On remand, back in the trial court, the District again challenged the lawsuit, arguing that Davis's complaint was moot because the Contractor had completed the project and contracts. The trial court agreed and reasoned that because Davis was seeking to have the entire transaction declared invalid, (rather than on the rights of the parties), disgorgement of monies paid to the Contractor was no longer available relief because the contract was fully performed. Davis appealed.

The Fifth Appellate District reversed the trial court's decision. The Appellate Court acknowledged that Davis's suit sought to invalidate the transaction, but also included a taxpayer action challenging illegal expenditure of public funds. Because disgorgement of funds is available relief in a taxpayer action, despite completion of the school. The Appellate Court held the suit was not moot and again remanded the case to the trial court for further proceedings.

Davis v. Fresno Unified School District. (2020) 57 Cal. App.5th 911.

NOTE:

> *If a district contemplates a lease-leaseback arrangement, the transaction must be a genuine lease that includes a contractor-financing component and allows the district to use the premises as a tenant during the term of the lease. Otherwise, there is risk that a court will invalidate the arrangement and order disgorgement of the proceeds.*

An Exculpatory Clause in a Commercial Lease May Shield a Property Owner from Liability for Personal Injuries That Occur because of Passive Negligence or Nonfeasance

Richard Garcia (Garcia) owned an office furniture business. In 2009, he leased premises for his business. The original lease contained a clause that held the property owner not liable for personal injuries to Garcia, whether resulting from conditions on the premises or other sources.

Garcia inspected the property twice before he signed the original lease and continuously occupied the building from 2009 to 2017. The building had a staircase to a second floor room, which Garcia used a few times a month. At the top of the staircase, there was a door with a low beam at the top of the doorframe.

In 2012, the original owner sold the property to defendant Feit South Bay, LLC (Feit). Feit hired defendant D/AQ Corporation (D/AQ) to manage the property. When the ownership changed, an employee of D/AQ, Doran Tajkef, met with Garcia to "look around" and advise Garcia that he would be acting as property manager. When Garcia met with Mr. Tajkef, there was no discussion of the staircase or the doorway at the top, and Mr. Tajkef did not go upstairs.

In April 2016, Garcia ascended the stairs and tried to open the door. However, the door handle was stuck. Garcia pushed harder on the door, which caused the door to open suddenly. Garcia was unable to avoid hitting his head on the beam at the top of the doorframe, and he fell backward down the stairs. Garcia filed suit against Feit and D/AQ, alleging causes of action for negligence and premises liability.

Feit and D/AQ sought summary judgment arguing that Garcia could not prove the element of duty because a property owner is not liable for injuries caused by alleged dangerous conditions of property when the property owner has no actual knowledge of that condition. Feit and D/AQ also argued that the exculpatory clause in Garcia's lease prevented Garcia from asserting the claim. The trial court granted the

defendants' motion to enter judgment for them, and Garcia appealed.

On appeal, Garcia argued that the exculpatory clause was invalid and did not exempt Feit or D/AQ from their duty to, "reasonably inspect the premises." Thus, Garcia argued, a clause that purports to exempt a property owner from liability due to negligence is not valid when a tenant suffers an injury because of a dangerous condition.

Relying on the court's decision in *Fritellli Inc. v. 350 N. Canon Drive, LP* (2011) 202 Cal.App.4th 35, the Court of Appeal affirmed the trial court's ruling and concluded that "where the parties knowingly bargain for the protection at issue, the protection should be afforded." The Court of Appeal held the type of clause protecting the property owner is effective when the accident involves mere failure to perform a duty passive negligence. The staircase was not changed or modified during Garcia's lease. The Court of Appeal found that Mr. Tajkef's failure to complete an inspection was an example of failure to perform a duty or passive negligence. Garcia did not allege any intentional or willful action by the property owner or manager that led to his accident and injuries. The Court of Appeal concluded the clause properly insulated the property owner from negligence.

Garcia v. D/AQ Corporation (2020) 57 Cal.App.5th 902.

WAGE AND HOUR

City Sanitation Workers Are Not In The "Transportation Industry" Under Wage Order No. 9.

The City of Los Angeles employs wastewater collection workers in the City's Wastewater Collection Systems Division (Wastewater Division) of its Bureau of Sanitation (Sanitation Bureau). The City's wastewater collection crews remove debris and storm water from the City's catch basins, sidewalk culverts, low flow sewage, and storm drain systems. They transport the debris to collection and treatment facilities. Some of the trucks the used to complete these duties are classified as commercial vehicles, which requires the driver to hold a commercial driver's license with tanker and air brake endorsements. The work involves substantial driving each day, sometimes more than 100 miles to as many as 90 work and disposal sites.

Three wastewater collection crew members sued the City on behalf of themselves and all other Wastewater Division employees, alleging that the City denied them meal and rest breaks from June 2, 2011 to the present in violation of Labor Code Sections 226.7 and 512 and Wage Order No. 9. The employees alleged the City restricted their meal and rest breaks by requiring them to: "remain on-call at all times; refrain from sleeping on the job; refrain from returning to their yard until the end of their shift; refrain from leaving the work locations during their shift; refrain from using City vehicles for personal business, including traveling to lunch breaks; refrain from congregating with other Wastewater Division employees during their shift; and refrain from leaving their work vehicles during their shift." In general, Wage Order No. 9 explicitly requires public entities to provide meal and rest breaks to "commercial drivers" in the "transportation industry."

After many years, the City filed a motion to dismiss the employees' Wage Order No. 9 claims, arguing that Wage Order No. 9 did not apply because they did not work in the transportation industry. Alternatively, the City argued that Wage Order No. 9 applied only to those wastewater collection employees who were permitted to drive the City's commercial vehicles. The trial court concluded that Wage Order No. 9 applied only to workers in the transportation industry, and that undisputed evidence indicated that the Wastewater Division's primary purpose was to maintain the City's sanitary and storm sewer systems. The court noted that any driving performed by its employees was incidental to that primary objective. The trial court entered judgment in the City's favor, and denied the employees' the opportunity to assert new federal claims. The employees appealed.

On appeal, the court rejected the employees' arguments and affirmed the trial court's ruling. The court noted that the main purpose of the business, and not the job duties of the employee, determines which wage order applies. The court relied on the language of Wage Order No. 9 stating that a business whose purpose is transportation is considered to be in the transportation industry. The court reasoned that to conclude that the incidental activities the Wastewater Division employee performed involving transportation "would read the word 'purpose' right out of the order." Although some employees were required to operate commercial vehicles to carry out the Sanitation Bureau's purpose, the purpose of the Wastewater Division was to clean the City's sewers. Thus, the trial court properly entered judgment in the City's favor.

Miles v. City of Los Angeles (2020) *56 Cal.App.5th 728.*

NOTE:

> *While the meal and break provisions of California's Wage Orders generally do not apply to public agencies, Wage Order No. 9 provides an exception for transportation industry employees. Public agencies should ensure they*

are providing meal and rest breaks to covered public transportation employees. LCW attorneys can assist agencies in determining which job classifications qualify as "Transportation Industry" employees.

FAMILY AND MEDICAL LEAVE ACT

Employee Did Not Show Employer Willfully Violated Her FMLA Rights.

Andrea Olson contracted to work with the Bonneville Power Administration (BPA) as a Reasonable Accommodation Coordinator in 2010. In this role, Olson assisted employees in need of accessibility accommodations at work, trained managers and employees on their rights and responsibilities, and maintained records and documentation. In late 2011, BPA declined to renew Olson's contract for another year. Instead, BPA required Olson to work through MBO Partners, a payroll service provider that had a master services agreement with BPA to facilitate certain independent contractors.

In 2013, Olson began experiencing anxiety, and in March 2014, Olson made a formal accommodation request through MBO Partners. Among other things, Olson requested to telework. MBO Partners subsequently informed BPA's Director of Human Resources of Olson's request. Shortly thereafter, Olson's anxiety increased, and she informed BPA she would be out of the office for two weeks. Olson then formally invoked leave under the Family and Medical Leave Act (FMLA) through MBO Partners, and she requested that MBO Partners inform her before sharing information about her condition or leave with BPA. Olson informed BPA that she would be out of the office for two more weeks and that she hoped to start a transition plan soon.

While on leave, Olson performed limited teleworking for which she billed BPA. However, because BPA did not have an expected date for Olson's return, it began exploring whether an existing employee could take on Olson's responsibility. After Olson contacted BPA's Equal Employment Opportunity office to discuss filing a complaint, BPA sent Olson an email stating that her network access had been terminated in accordance with security policies. Despite termination of her network access, Olson still billed BPA for three hours of her time the next month.

In early May 2014, Olson told BPA that she intended to attempt a trial work period that she and her physician had agreed upon. BPA responded that she was under a "stop work" order and that she would have to meet with a BPA manager before returning to work. On May 27, 2014, Olson formally filed an EEO complaint alleging that BPA had violated her FMLA rights. While BPA agreed to allow Olson to telework more on June 11, 2014, she did not accept the offer and did not return to work. Nearly three years later, on March 13, 2017, Olson filed a lawsuit claiming that BPA willfully interfered with her rights under the FMLA.

The district court concluded that BPA never provided Olson with notice of her FMLA rights. However, it also found that Olson's lawsuit was untimely because BPA's conduct was not willful. Specifically, the court noted that that BPA consulted with its legal department about how to proceed during Olson's FMLA leave, opted not to terminate her, offered her a trial work period, and made efforts to restore her to an equivalent position. Olson appealed.

In general, the FMLA provides job security to employees who must be absent from work because of their own illness or to care for family members who are ill. FMLA interference can take many forms, such as using FMLA leave as a negative factor in hiring, promotions, and disciplinary actions. Employers also have a duty to inform employees of their entitlements under the FMLA. However, failure to provide notice alone is not a cause of action; rather, employees must prove that the employer interfered with their exercise of FMLA rights.
On appeal, Olson argued that BPA's lack of notice interfered with her FMLA rights because she would have structured her FMLA leave differently had she been given notice and because BPA's actions during her FMLA leave exacerbated her FMLA-qualifying condition of anxiety.

The Ninth Circuit panel, however, determined that it did not need to decide whether BPA's failure to give notice constituted inference. Under the FMLA, a lawsuit must generally be brought within two years "after the date of the last event constituting the alleged violation." This deadline is extended to three years for "willful" violations. The court reasoned that because the "last event constituting the alleged violation" occurred no later than June 11, 2014 (when BPA emailed Olson allowing her to telework more), she would have to show that BPA's conduct was willful to avoid the statutory time bar for her March 2017 lawsuit.

The Ninth Circuit concluded that the district court was correct in finding Olson could not prove willfulness. For a willful violation to occur, the employee must show the employer knew or showed reckless disregard for whether its conduct was prohibited by statute. The court noted that the district court applied this standard and found little evidence that BPA knew or showed reckless disregard for whether it was violating Olson's

FMLA rights. Accordingly, the Ninth Circuit concluded that Olson's claim was indeed barred by the statute of limitations.

Olson v. United States by & through Dep't of Energy (2020) *980 F.3d 1334.*

NOTE:

> *The willfulness standard applied in FMLA cases is the same standard used for the Fair Labor Standards Act. The willfulness standard is very difficult to meet.*

CALIFORNIA PUBLIC RECORDS ACT

Records Requestors Can Be Required To Post A CCP Section 529 Undertaking.

In 2007, the City of Sacramento adopted a resolution approving the destruction of records as allowed under the Government Code and authorizing its city clerk to adopt a new records retention policy. In 2010, the city clerk did so. The new records retention schedule allowed for the destruction of all correspondence, including emails, older than two years old, subject to certain exceptions.

Despite adopting this policy in 2010, the City lacked the technology to automatically delete older emails until 2014. In December 2014, the City informed various media and citizen groups that it would begin automatically deleting emails under its 2010 policy starting July 1, 2015. Less than one week before the City planned to begin automatically deleting emails, Richard Stevenson and Katy Grimes (Requestors) each submitted California Public Records Act (CPRA) requests for records that were set for destruction. Stevenson's request concerned 53 million records, and Grimes' request concerned approximately 64 million. The City objected and estimated it would take over 20,000 hours to comply with the requests.

Requestors then initiated a lawsuit against the City for refusing to provide them access to the records they requested in violation of the California Public Records Act. They also sought and obtained a temporary restraining order barring the City from deleting records potentially responsive to their requests. After obtaining their temporary injunction, they submitted new, narrower requests, concerning approximately 15 million potentially responsive e-mails.

The superior court granted Requestors a preliminary injunction and ordered the City to preserve the 15 million potentially responsive emails. However, the court conditioned the injunction on Requestors posting an $2,349.50 undertaking pursuant to Code of Civil Procedure Section 529 (Section 529). Pursuant to Section 529, a court generally must require a party who has obtained a preliminary injunction to post an undertaking, or a sum given as a security, in case a court later determines the injunction was improper. Courts set the amount of the undertaking based on an estimate of the harmful effect the injunction is likely to have on the restrained party. If a court later concludes that the injunction was wrongly issued, it may require some or all of this amount to be distributed to the restrained party to compensate it for the harm it suffered.

Requestors appealed arguing that they did not have to provide a Section 529 undertaking because it: 1) conflicted with the CPRA; and 2) was an unlawful prior restraint under the First Amendment. The Court of Appeal disagreed with both arguments.

First, the Court noted that compliance with Section 529's requirements is a necessary condition to obtain a valid preliminary injunction. While certain statutes expressly exempt certain parties from Section 529's requirements, the CPRA does not.

Next, the court determined that Section 529's undertaking requirement does not conflict with the CPRA. The Court reasoned that Section 529 provides a general rule: in the event the court grants an injunction, it must require the party that obtained the injunction to post an undertaking. However, the CPRA says nothing on the topic of undertakings. The Court also noted that the just because CPRA applicants can be required to pay copying costs and, in frivolous cases, court costs and attorney's fees, it does not follow that CPRA requestors are exempt from other generally applicable requirements. Further, the court reasoned that requiring an undertaking for CPRA injunctions did not conflict with the statute's purpose of allowing the public broad access to public records.

Finally, the Court of Appeal concluded that requiring a party seeking records under the CPRA to post a bond is not an "unlawful prior restraint" in violation of the First Amendment. For First Amendment purposes, a "prior restraint" forbids certain communications in advance of the time that such communications are to occur. However, in this case, the City did not forbid Requestors from any communications. It simply asked them to post an undertaking pursuant to Section 529. Thus, the Court of Appeal affirmed the trial court's decision.

Stevenson v. City of Sacramento (2020) *55 Cal. App. 5th 545.*

NOTE:

The superior court initially set the undertaking at $80,000 based on the City's estimate it would cost $80,000 each year to retain all its emails indefinitely. However, the undertaking was reduced to $2,349.50 after the City later determined it would spend as little as $2,349.50 to comply with the injunction.

DID YOU KNOW....?

Whether you are looking to impress your colleagues or just want to learn more about the law, LCW has your back! Use and share these fun legal facts about various topics in labor and employment law.

A district does not have to provide a final paycheck to a terminated employee until the next regularly scheduled payday. While Labor Code Section 201(a) requires an employer to pay a terminated employee "the wages earned and unpaid at the time of discharge" immediately, Labor Code Section 220 explicitly excludes community college districts and K-12 public school districts from this requirement.

Employers are now prohibited from requiring gender or sex-related information from applicants and employees, including seeking proof of an applicant's or employee's gender or gender identity. (2 C.C.R. § 11032.)

Cal/OSHA has adopted temporary regulations that require public agencies to prepare implement, and maintain a written COVID-19 Prevention Program (CPP) by November 30, 2020. Education entities can purchase a template CPP from LCW that they can use to customize their CPP at https://www.lcwlegal.com/responding-to-COVID-19/responding-to-the-coronavirus-covid-19-for-public-k-12-school-districts (K-12 School Districts) or https://www.lcwlegal.com/responding-to-COVID-19/responding-to-the-coronavirus-covid-19-for-community-college-districts (Community College Districts).

CONSORTIUM CALL OF THE MONTH

Members of Liebert Cassidy Whitmore's employment relations consortiums may speak directly to an LCW attorney free of charge regarding questions that are not related to ongoing legal matters that LCW is handling for the district, or that do not require in-depth research, document review, or written opinions. Consortium call questions run the gamut of topics, from leaves of absence to employment applications, disciplinary concerns to disability accommodations, labor relations issues and more. This feature describes an interesting consortium call and how the question was answered. We will protect the confidentiality of client communications with LCW attorneys by changing or omitting details.

Question: A human resources manager contacted LCW to ask whether state law requires the district's elected trustees undergo sexual harassment prevention training.

Answer: The attorney advised the manager that elected trustees should complete sexual harassment prevention training if the district provides its elected trustees any type of compensation, salary, or stipend. (Government Code Section 53237.) The attorney noted that elected trustees need to complete the training within six months of taking office and every two years thereafter.

BENEFITS CORNER

CalPERS Applies COVID-19 Relief Rule Regarding Timeframe Extensions For Special Enrollment Periods And COBRA Elections During The Federally Declared National Emergency Period.

On May 5, 2020, the IRS and U.S. Department of Labor published the "COVID-19 Relief Rule" (85 FR 26351), providing extended health insurance enrollment periods and coverage for certain plans. Specifically, the COVID-19 Relief Rule extends the 60-day window periods for: 1) providing evidence of a specific qualifying event (such as new enrollment due to loss of coverage or adding a dependent due to marriage, birth, adoption, or placement for adoption) for enrolling for health coverage after the initial enrollment period (i.e., a "special enrollment period"); and 2) to elect continued health coverage through COBRA. These extensions will run from March 1, 2020 until 60 days after the announced end of the national emergency.

Note, these extension of time frames are not mandatory for non-Federal governmental plans, although government agencies such as the U.S. Department of Health and Human Services are encouraging plan sponsors of non-Federal governmental plans to provide relief to participants and beneficiaries similar to that specified in the COVID-19 Relief Rule. If a local government plan decides to implement these extensions, we recommend doing so for all employees to avoid potential discrimination claims, or at the very least based on the criteria outlined in the COVID-19 Relief Rule. Employers will need to carefully work with their insurance provider companies to arrange for these

extensions if they decide to do so.

CalPERS has waived the 60-day limitations for special enrollment periods and COBRA elections during the national emergency period and confirmed all contracted health plan partners would comply with the COVID-19 Relief Rule. (See, CalPERS Circ. Letter 600-039-20; https://www.calpers.ca.gov/page/coronavirus/annuitant.)

CalPERS stated that members may execute and submit a signed and notarized CalPERS Affidavit of Marriage/Domestic Partnership if they are unable, due to extenuating circumstances, to produce a marriage certificate or domestic partnership registration. Additionally, if a member is unable to obtain a government-issued birth certificate for a dependent child due to COVID-19, the member may provide a hospital birth record to facilitate the enrollment and provide the government issued birth certificate once it is available.

CalPERS also stated that health benefit officers (HBOs) are responsible for applying the extensions to eligible employees and family members and processing the transactions. HBOs should contact CalPERS for assistance with processing new enrollments due to loss of coverage and/or adding a newly acquired dependent if the event and date of received enrollment requests are more than 60 days apart.

IRS Releases Final 2020 Forms 1094 & 1095 And Related Instructions For ACA Reporting.

We noted in the November 2020 Benefits Corner that the IRS released drafts of Form 1094-C and Form 1095-C for Applicable Large Employers (ALEs) to use in reporting ACA compliance for the 2020 tax year. The IRS recently issued the final versions of Form 1094-C and Form 1095-C and related instructions. The forms and instructions remain mostly unchanged compared to the previous year except for some of the notable highlights below.

The 2020 Form 1095-C makes completion of the "Plan Start Month box" mandatory for the first time. The Form 1095-C instructions also explain that the affordability threshold for plan years beginning in 2020 is 9.78%. The forms also explain the indexed penalty for reporting failures increased from $270 to $280 per return, with calendar-year maximum penalties increasing from $3,339,000 to $3,392,000. The IRS also provided the following deadlines and updates regarding extensions:

The due date for furnishing Form 1095-C to individuals was extended from January 31, 2021 to March 2, 2021. The IRS stated it will not grant any further additional extensions for providing individuals Form 1095-C.

For calendar year 2020, ALEs must file Forms 1094-C and 1095-C by March 1, 2021, or March 31, 2021, if filing electronically.

ALEs should carefully read the forms and instructions when conducting required ACA reporting compliance. LCW remains available to assist employers through this process.

Firm Publications

To view these articles and the most recent attorney-authored articles, please visit: **www.lcwlegal.com/news.**

Los Angeles Partner Brian Walter and Associate Alexander Volberding authored the *Western City* article, "Best Practices to Avoid Employment Litigation Related to COVID-19," discussing how public agencies can avoid costly litgation in the era of COVID-19.

Partner **J. Scott Tiedemann,** Partner Jennifer Rosner and Associate Lars T. Reed recently wrote "CPCA Public Safety Annuitants" for the Winter 2020 edition of the *California Police Chief Magazine.* The piece highlights the current police talent drain caused in part by increased police scrutiny and COVID-19 and addresses the need to hire retirees. The trio share critical information regarding staffing, benefits, compliance, and more that CalPERS retirees need know during postretirement work.

Partner **Shelline Bennett** and Associate **Lars T. Reed** penned "Best Practices for Accommodating Nonconforming Gender Identities in the Workplace" for *HR News*. The article defines the term "nonbinary", explores the increase in individuals who do not identify as cis gender, highlights legal protections for nonbinary individuals and provides advice on how to create welcoming workspaces for persons who are gender nonconforming.

Managing Partner **J. Scott Tiedemann** and Associate **Brian Hoffman** explored whether the Fourth Amendment applies to a police shooting if the suspect escapes in the "High Court to Rule Whether Bullets Always Qualify as a Seizure", which was published in the Nov. 6, 2020 issue of the *Daily Journal.* The article highlights the Oct. 14 oral argument in *Torres v. Madrid* that was presented to the U.S. Supreme Court, which clarifies what constitutes a seizure under the Fourth Amendment.

Senior Counsel **David Urban** and Associate **Kristin Lindgren** recently wrote "Ruling Says Unruh Act Does Not Apply to School Districts," which was published in the *Daily Journal* on Nov. 27, 2020. The piece explores whether public school districts constitute "business establishments" under the Unruh Civil Rights Act.

New to the Firm

Yesenia Z. Carillo is an Associate in Liebert Cassidy Whitmore's Fresno office where she advises clients on employment law matters, including employee contracts, settlement agreements, retention policies, wage and hour compliance and employment handbooks.

She can be reached at 559.256.7816 or ycarrillo@lcwlegal.com.

Chelsea M. Desmond is an Associate in Liebert Cassidy Whitmore's Los Angeles office where she defends public agencies against a wide variety of employment claims brought under state and federal law, including discrimination, harassment, and retaliation based on race, gender, sexual orientation, disability, and whistleblower retaliation.

She can be reached at 310.981.2739 or cdesmond@lcwlegal.com.

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MANAGEMENT TRAINING WORKSHOPS

Firm Activities

Consortium Training

Jan. 6 **"Introduction to the FLSA"**
Napa/Solano/Yolo ERC | Webinar | Lisa S. Charbonneau

Jan. 7 **"Managing the Marginal Employee"**
Gateway Public ERC | Webinar | Ronnie Arenas

Jan. 7 **"Current Developments in Workers' Compensation"**
Imperial Valley ERC | Webinar | Richard Goldman

Jan. 8 **"Reductions in Staffing: Classified Employees"**
Bay Area CCD ERC | Webinar | Laura Schulkind

Jan. 13 **"Labor Negotiations from Beginning to End"**
Central Valley ERC | Webinar | Che I. Johnson

Jan. 13 **"Current Developments in Workers' Compensation"**
Ventura/Santa Barbara ERC | Webinar | GMK Attorney

Jan. 14 **"Public Sector Employment Law Update"**
West Inland Empire ERC | Webinar | Richard S. Whitmore

Jan. 15 **"Managing Performance Through Evaluation"**
Central CA CCD ERC | Webinar | Melanie L. Chaney

Jan. 15 **"Prevention and Control of Absenteeism and Abuse of Leave"**
SCCCD ERC | Webinar | Meredith Karasch

Jan. 20 **"A Guide to Implementing Public Employee Discipline"**
South Bay ERC | Webinar | Stephanie J. Lowe

Jan. 21 **"Employees and Driving"**
San Joaquin Valley ERC | Webinar | Michael Youril

Jan. 27 **"Public Sector Employment Law Update"**
Ventura/Santa Barbara ERC | Webinar | Richard S. Whitmore

Jan. 28 **"Maximizing Performance Through Evaluation, Documentation and Corrective Action"**
Bay Area ERC | Webinar | Christopher S. Frederick

Feb. 3 **"Managing COVID-19 Issues: Now and What's Next"**
Orange County | Webinar | Peter J. Brown & Alexander Volberding

Feb. 3 **"Difficult Conversations"**
South Bay ERC | Webinar | Stacey H. Sullivan

Feb. 4 **"Navigating the Crossroads of Discipline and Disability Accommodation"**
Imperial Valley ERC | Webinar | Jennifer Rosner

Feb. 4 **"The Art of Writing the Performance Evaluation"**
Northern CA CCD ERC | Webinar | Amy Brandt

Feb. 4 **"File That! Best Practices for Employee Document and Record Management"**
San Gabriel Valley ERC | Webinar | James E. Oldendorph

Feb. 5 **"Summit: Race Forum (AM Session)"**
Bay Area CCD ERC | Webinar | Laura Schulkind

Feb. 5 **"Summit: Race Forum (PM Session)"**
Bay Area CCD ERC | Webinar | Laura Schulkind

Feb. 5 **"Hiring the Best While Developing Diversity in the Workforce: Legal Requirements and Best Practices for Screening Committees"**
Central CA CCD ERC | Webinar | Jenny Denny

Feb. 10 **"Supervisor's Guide to Understanding and Managing Employees' Rights: Labor, Leaves and Accommodations"**
Central Coast ERC | Webinar | Kelsey Cropper

Feb. 10 **"Prevention and Control of Absenteeism and Abuse of Leave"**
North State ERC | Webinar | Brian J. Hoffman

Feb. 11 **"The Art of Writing the Performance Evaluation"**
East Inland Empire ERC | Webinar | I. Emanuela Tala

Feb. 11 **"Maximizing Supervisory Skills for the First Line Supervisor - Part 1"**
LA County HR Consortium | Webinar | Kristi Recchia

Feb. 11 **"Human Resources Academy I"**
San Diego ERC | Webinar | Kristi Recchia

Feb. 17 **"The Art of Writing the Performance Evaluation"**
Central Valley ERC | Webinar | Stephanie J. Lowe

Feb. 17 **"Administering Overlapping Laws Covering Discrimination, Leaves and Retirement Part 1"**
Gold Country ERC | Webinar | Richard Bolanos & Richard Goldman

Feb. 25 **"The Future is Now - Embracing Generational Diversity & Succession Planning"**
North San Diego County ERC | Webinar | Christopher S. Frederick

Feb. 25 **"Managing the Marginal Employee"**
San Mateo County ERC | Webinar | Erin Kunze

Feb. 25 **"Supervisor's Guide to Public Sector Employment Law"**
Ventura/Santa Barbara ERC | Webinar | Ronnie Arenas

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.

Jan. 6 **"FLSA"**
Los Angeles World Airports (LAWA) | Webinar | Elizabeth Tom Arce

Jan. 7 **"Preventing Workplace Harassment, Discrimination and Retaliation"**
City of Costa Mesa | Webinar | Brian J. Hoffman

Jan. 12 **"The Brown Act"**
Gavilan College | Webinar | Eileen O'Hare-Anderson

Jan. 13 **"Hiring the Best While Developing Diversity in the Workforce: Legal Requirements and Best Practices for Screening Committees"**
Yuba Community College District | Webinar | Laura Schulkind

Jan. 14 **"Preventing Workplace Harassment, Discrimination and Retaliation"**
City of Costa Mesa | Webinar | I. Emanuela Tala

Jan. 20 **"The Brown Act"**
City of Buena Park | Webinar | Erin Kunze

Jan. 20 **"Hiring the Best While Developing Diversity in the Workforce: Legal Requirements and Best Practices for Screening Committees"**
Ohlone College | Webinar | Laura Schulkind

Jan. 21 **"Governing Board Training"**
Chaffey Community College District | Webinar | Jenny Denny

Jan. 21 **"Preventing Workplace Harassment, Discrimination and Retaliation"**
City of Hesperia | Webinar | Joung H. Yim

Jan. 22 **"Ethics and The Brown Act"**
College of the Desert | Webinar | Laura Schulkind

Jan. 27, 28 **"Hiring the Best While Developing Diversity in the Workforce: Legal Requirements and Best Practices for Screening Committees"**
Contra Costa Community College District | Webinar | Laura Schulkind

Feb. 2, 3, 5 **"Hiring the Best While Developing Diversity in the Workforce: Legal Requirements and Best Practices for Screening Committees"**
Rancho Santiago Community College District | Webinar | Jenny Denny

Feb. 8 **"Ethics in Public Service"**
City of Bellflower | Webinar | Stephanie J. Lowe

Feb. 19 **"The Brown Act"**
Mt. San Jacinto College | Webinar | T. Oliver Yee

Feb. 25 **"Management Labor Relations Training"**
Hartnell Community College District | Webinar | Laura Schulkind & Heather R. Coffman

Speaking Engagements

Jan. 20 **"Ethics in a Virtual World"**
Community College League of California (CCLC) Effective Trusteeship Workshop | Webinar | Eileen O'Hare-Anderson & Kristin D. Lindgren

Jan. 29 **"Public Sector Employment Law Update"**
County Personnel Administrators Association of California (CPAAC) Central Valley Meeting | Webinar | Shelline Bennett

Feb. 18 **"Negotiated Overtime Provisions vs. FLSA Overtime Requirements: How To Manage The Overlap"**
LCW Conference 2021 | Webinar | Lisa S. Charbonneau

Feb. 18 **"HR Bootcamp: Leave Overview"**
LCW Conference 2021 | Webinar | Laura Drottz Kalty

Feb. 18 **"HR Bootcamp: Discipline and Due Process Rights"**
LCW Conference 2021 | Webinar | Richard Bolanos

Feb. 18 **"Top 10 Retirement Errors You Didn't Know You Were Making"**
LCW Conference 2021 | Webinar | Steven M. Berliner & Michael Youril

Feb. 18 **"HR Bootcamp: A Legal Tune Up to Get, and Stay, in Peak Legal Shape"**
LCW Conference 2021 | Webinar | Melanie L. Chaney

Feb. 18 **"Personnel Records and Public Records Act Requests in the Public Safety Arena"**
LCW Conference 2021 | Webinar | Geoffrey S. Sheldon

Feb. 18 **"Opening Session"**
LCW Conference 2021 | Webinar | J. Scott Tiedemann & Morin I. Jacob & Shelline Bennett & Mark Meyerhoff

Feb. 18 **"Police and Fire Legal Update"**
LCW Conference 2021 | Webinar | J. Scott Tiedemann

Feb. 18 **"Disciplinary Investigations and Appeals"**
LCW Conference 2021 | Webinar | Suzanne Solomon

Feb. 19 **"Conducting Defensible Workplace Investigations In the Midst of a Pandemic"**
LCW Conference 2021 | Webinar | Morin I. Jacob

Feb. 19 **"Something Old Something New - Hot Topics for Employee Benefits in a COVID World"**
LCW Conference 2021 | Webinar | Heather DeBlanc

Feb. 19 **"Negotiating Compensation in Labor Agreements - What Drives the Compensation Conversation?"**
LCW Conference 2021 | Webinar | Jack Hughes

Feb. 19 **"Teleworking: Best Practices for Now and Going Forward"**
LCW Conference 2021 | Webinar | Alexander Volberding & Alysha Stein-Manes & Stephanie J. Lowe

Feb. 19 **"Top Legal Issues to Review and Correct in Collective Bargaining Agreements"**
LCW Conference 2021 | Webinar | Che I. Johnson

Feb. 19 **"Closing Session"**
LCW Conference 2021 | Webinar | Paul D. Knothe & Lisa S. Charbonneau & Stephanie J. Lowe & Che I. Johnson

Feb. 19 **"It is Time to Prepare for Your Upcoming Labor Negotiations - Tips for Success in the Preparation Process"**
LCW Conference 2021 | Webinar | Peter J. Brown

Feb. 19 **"Litigation 2021: What Can Your Agency Expect?"**
LCW Conference 2021 | Webinar | Mark Meyerhoff

Feb. 19 **"Compensating Employees for Hours Worked - Seems Simple, Right?"**
LCW Conference 2021 | Webinar | Elizabeth Tom Arce

Feb. 19 **"Reasonable Accommodation for Chronic Lifelong Illness or Injury"**
LCW Conference 2021 | Webinar | Jennifer Rosner

Seminars / Webinars

For more information and to register, please visit www.lcwlegal.com/events-and-training/webinars-seminars.

Jan. 28 **"Tips & Best Practices Regarding Discovery"**
Liebert Cassidy Whitmore | Webinar | Geoffrey S. Sheldon

Jan. 21, 28 **"Nuts & Bolts of Negotiations"**
Liebert Cassidy Whitmore | Webinar | Kristi Recchia & Laura Drottz Kalty

Feb. 25 **"PERB Academy"**
Liebert Cassidy Whitmore | Webinar | Kristi Recchia & Adrianna E. Guzman

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