LCW Liebert Cassidy Whitmore

Education Matters

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

April 2019

INDEX

LCW NEWS

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DISCRIMINATION

California State University Settles Discrimination Lawsuits with Jewish Students.

In March 2016, the Jewish student group Hillel at San Francisco State University arranged for the mayor of Jerusalem to speak at an event on the University's campus. Hillel gave University administrators nine days' notice prior to the event and recommended the University create a plan to address protestors at the event. A student secured permits and a room for the event. The University assigned the event to a room in a building in the heart of campus.

A few days later, an administrator informed the student that the original room was no longer available, and the only available room was in a building in a "remote and poorly-known" location. The alternate room required a $356 fee.

Prior to the event, Hillel communicated with the University's Police Department. The Police Department informed Hillel it expected protesters and intended to erect barriers and have a designated protest area outside the event. Hillel asked the Police Department about what types and levels of disruption at the event would trigger ejections, but the Department did not respond. The Police Department did tell University administrators they should consider having a designated counter-protest area and that if there was a disruption, the police would need a Citizen's Arrest form signed by someone from Hillel in order to remove people from the event.

Ultimately, a group of student protestors disrupted the event by chanting and shouting, and using sound amplification devices prohibited by the University's student conduct code. The Chief of Police approached the protestors and asked them to leave, but they ignored him. Other University administrators and staff declined to take any steps to stop or remove the protestors despite the existence of the "free speech zone" set up outside the event. One administrator issued a "stand down" order that prevented the police from taking any affirmative actions to stop or remove the protestors.

After the event, the University investigated the protest and concluded the protestors' use of amplified sound violated University policies.

The investigative report concluded the administrators' refusal to engage the protestors and the fact that only one administrator told the protestors to stop meant the administrators "impliedly sanctioned" the disruption.

The following academic year, the University and some student groups sponsored a student "know your rights" fair. Event organizers invited Hillel, but later changed the registration deadline with the intention of excluding Hillel from the event. Hillel students were ultimately excluded from the event and stated the University knew about this exclusion and did nothing to stop it.

Subsequently, three Jewish current or former University students and three Jewish community members filed a lawsuit against the University alleging the University and its administrators violated their rights to free speech and assembly under the First Amendment, denied them equal protection guaranteed by the Fourteenth Amendment, and discriminated against in violation of Title VI of the 1964 Civil Rights Act based on the events in the mayor's speech protest and the student information fair.

The University filed a motion to ask the court to strike the lawsuit because it was confusing, poorly organized, and full of redundant and immaterial information. The trial court ruled that the lawsuit did contain some clear allegations that put the University on notice of the claims asserted and underlying facts. Therefore, the trial court denied the motion to strike.

Alternatively, the University filed a motion to ask the court to dismiss the lawsuit because the University was immune from lawsuits for constitutional claims and the named administrators are not liable for damages on the constitutional claims in their official capacities.

The court examined each cause of action. The court ultimately found the students and community members failed to allege facts showing the administrators acted because of the content of students' or community members' speech or views. The court dismissed the claims that the University violated their First Amendment rights.

The court also found the students and community members failed to allege that the University and administrators removed student protestors or instructed the police to do so in similar circumstances, but did not do so in this case because of the students' and community members' Jewish identity. The court also found that the lawsuit failed to allege facts that supported the claim that University administrators had the power to require Hillel's participation in the student information fair or that administrators acted with the specific intent to deprive the students of their equal protection rights because of their Jewish identity. Accordingly, the court dismissed the equal protection claims.

Finally, the court held that the students and community members failed to adequately allege a Title VI violation. The lawsuit did not show that Jewish students suffered severe, pervasive, and objectively offensive discrimination. The students and community members admitted that the University responded to issues raised at the mayor's speech event and the student information fair. The court found that the lawsuit did not show these responses were clearly unreasonable. Finally, the students failed to allege facts showing they were denied educational benefits. The court dismissed the Title VI claims.

Overall, the court dismissed the lawsuit but allowed the students and community members to amend the complaint within twenty days.

Subsequently, the students and community

members amended the complaint by adding new student plaintiffs and dropping some administrators, but the lawsuit maintained the same causes of action. The court again ruled the acts described in the lawsuit did not adequately allege a violation of federal anti-discrimination laws so that liability may be imposed on the University, its administrators, or its faculty. As a result, the court dismissed the lawsuit without leave to amend.

However, the plaintiffs continued to fight and threaten litigation based on issuing stemming from the student information fair. To finally end the litigation, the University and students agreed to a settlement with the following terms:

- The University will issue a public statement affirming that "it understands that, for many Jews, Zionism is an important part of their identity;"
- The University will hire a coordinator of Jewish Student Life within the Division of Equity & Community Inclusion and dedicate suitable office space for this position;
- The University will retain an independent, external consultant to assess the University's procedures for enforcement of applicable CSU system-wide antidiscrimination policies and student code of conduct;
- The University will assign all complaints of religious discrimination to an independent, outside investigator for investigation for a period of 24 months;
- The University will allocate an additional $200,000 to support educational outreach efforts to promote viewpoint diversity and inclusion and equity on the basis of religious identity; and
- The University will allocate space on campus for a mural, paid for by the University, designed by student groups of differing viewpoints that were the subject of the litigation should such student groups elect to participate in the process.

Mandel v. Bd. of Trustees of California State Univ. (2018) __ F.3d __ [2018 WL 5458739], app. dism. Mar. 29, 2019.

CONSORTIUM CALL OF THE MONTH

Members of Liebert Cassidy Whitmore's consortiums are able to speak directly to an LCW attorney as part of the consortium service to answer direct questions not requiring in-depth research, document review, written opinions, or ongoing legal matters. Consortium calls run the full gamut of topics, from leaves of absence to employment applications, student concerns to disability accommodations, construction and facilities issues and more. Each month, we will feature a Consortium Call of the Month in our newsletter, describing an interesting call and how the issue was resolved. All identifiable details will be changed or omitted.

Question: A human resources manager contacted LCW to ask whether an agency can ask applicants about their salary expectations during the hiring process.

Answer: The attorney explained that AB 2282, which became effective January 1, 2019, allows an employer to ask an applicant about salary expectations for the position sought. The attorney explained that this is one of the exceptions to Labor Code section 432.3, which generally prohibits an employer from relying on an applicant's salary history information as a factor in determining salary.

LCW VICTORY

LCW Leads County to Victory in POBR Case.

In a case handled by LCW Partner Jesse Maddox, the California Court of Appeal dismissed a case a district attorney's investigator brought against a county for violation of the Public Safety Officers Procedural Bill of Rights Act ("POBR").

The County suspended the investigator for dishonesty, and he appealed the decision to the County's Employment Appeals Board. After an evidentiary hearing, the Board upheld the suspension. The investigator did not ask the Superior Court to reverse the Board's final decision pursuant to Code of Civil Procedure section 1094.5. That law authorizes a superior court to review the record of an administrative tribunal, like the Board, for certain errors.

Instead, the investigator waited over 10 months before requesting the trial court to issue an order compelling the Board to overturn its decision under Code of Civil Procedure section 1085. A request under section 1085 asks a court to compel an agency to follow its obligations under the law. The investigator claimed that the County violated his POBR rights when it did not provide him with all of the materials related to the investigation that led to his suspension. The County had provided the investigator with a copy of the Internal Affairs investigation into his conduct, but it did not provide certain documents the County had designated as confidential under section 3303(g) of the POBR.

The trial court dismissed the investigator's claims. The Court of Appeal affirmed the trial court's decision. The Court of Appeal concluded that the investigator used the wrong procedures to ask the court to reverse the Board's decision. The investigator could have raised his POBR claim with the trial court either before the Board's final administrative appeal decision, or in conjunction with a request seeking judicial review of the Board proceedings under section 1094.5. Because the investigator raised his claim after the final Board decision and did not file a request pursuant to section 1094.5, the court found that the investigator was barred from relitigating the EAB's finding that there was cause for his suspension.

NOTE:

LCW Partner Jesse Maddox is one of many LCW attorneys who provide expert POBR advice and litigation defense. They know how to successfully discipline a peace officer and all of the procedural ins and outs of POBR litigation.

LABOR RELATIONS

County Violated MMBA by Removing Leadership Duties from Hospital Division Chief.

Jeffrey Reese began working for the County of Santa Clara as a urologist in 1990. In 1996, Reese began serving as the division chief of urology in the surgery department at Santa Clara Valley Medical Center, a County hospital. Reese reported to Gregg Adams, the chair of the surgery department.

In 2010, Valley Physicians Group became the exclusive representative for the County's physician bargaining unit. Between November 2011 and April 2012, Reese participated in the joint labor-management committee focused on implementing the negotiated terms of the first memorandum of understanding between the bargaining unit and the County. In the fall of 2013, Reese joined the bargaining unit's negotiating team for successor MOU negotiations.

Starting in 2012, Jeffrey Arnold served as the hospital's chief medical officer. The chief medical officer is a physician who is primarily responsible for managing the provider staff, hiring and firing physicians, and determining their salaries. Arnold participated as a member of the County's negotiating team from late 2013 through late 2014.

In the negotiations for a successor MOU between the County and the bargaining unit, Arnold indicated that physician workload needed to increase. Members of the bargaining unit's negotiating team, including Reese, expressed their concerns that if physician workloads became excessive, patient safety and service quality would be at risk. After negotiations, Reese continued to raise these concerns with Arnold.

After one of the hospital's five urologists left and approximately 50,000 new patients were eligible to be served by the County health system, Arnold vetted urologist Dr. Tin Ngo for hire. Arnold offered Ngo a position without consulting or notifying Reese. Ngo was not Medical Board-certified at the time.

Before Ngo officially began work, Arnold told Adams that Reese was not the "correct" person to be chief and suggested that Ngo replace Reese. Adams objected to Arnold's plan because it would violate his department's policies, which required a division chief to be Medical Board-certified. Adams also thought the decision to replace Reese was premature.

Arnold then informed Adams that he was proposing to have Ngo named as "interim chief." Once again, Adams rejected Arnold's proposal because Ngo was not yet Medical Board-certified. Instead, Arnold decided to install Ngo as a "medical director," and give Ngo most of Reese's authority as chief. Arnold increased Ngo's pay to equal Reese's. While Reese did not suffer a pay loss, 90% of his leadership duties were removed.

To prove that an employer has discriminated or retaliated against an employee in violation of the Meyers-Milias Brown Act, the employee must show that: 1) he or she exercised rights under the MMBA; 2) the employer had knowledge of the exercise of those rights; 3) the employer took adverse action against the employee; and 4) the employer took the action because of the exercise of those rights. If the employee proves these elements, the burden shifts to the employer to demonstrate that it would have taken the same action, even in the absence of the protected conduct.

The Public Employment Relations Board concluded that the County removed Reese's division chief duties because of his involvement with the bargaining unit, which violated the MMBA. PERB noted that "Reese first contested Arnold's stated interest in increasing the physicians' workload during successor MOU bargaining and thereafter continued to advocate for additional staffing to ease the urology staff's workload." PERB also noted that removing Reese's duties as division chief limited his ability to oppose Arnold's plan to increase physicians' workload. Thus, "Arnold's managerial concerns about Reese were directly related to the very matters he had raised in the course of his protected conduct."

PERB rejected the County's argument that it would have taken the same action, even in the absence of Reese's protected conduct, because of the urgent need for Ngo as a medical director.

County of Santa Clara (Reese), PERB Decision No. 2629-M (2019).

NOTE:

A critical fact in PERB's decision was that management stripped the doctor of most of his leadership duties. Those duties included managing the very workload and safety issues that the doctor raised during collective bargaining and thereafter. The fact that the doctor retained the same pay was irrelevant. Among other things, this decision shows that taking leadership duties away can be an adverse action.

Although this case involved an interpretation of the Meyers Milias Brown Act, the bargaining statute that applies to cities, counties, and special districts, PERB frequently looks to decisions under the MMBA in interpreting the Educational Employment Relations Act.

Fire Protection District Violated MMBA When It Denied Represented Employees Longevity Differential.

The Public Employment Relations Board found that a County Fire Protection District violated the Meyer-Milias Brown Act when it granted unrepresented employees a longevity differential but denied the benefit to employees represented by the union.

In 2006, the Contra Costa County Board of Supervisors passed a resolution that provided about 600 classifications of County employees a longevity differential consisting of a 2.5% increase in pay for 15 years of service. The resolution described the eligible County employees as "Management, Exempt and Unrepresented Employees."

The United Chief Officers Association represented the Fire Management Unit of the Contra Costa County Fire Protection District, one of the County's special districts. In subsequent labor negotiations between the Association and the District, the Association demanded the same longevity differential previously granted to unrepresented management employees. The District rejected the Association's proposal, and admitted on several occasions that it did so to ensure that unrepresented employees are paid more than represented employees.

In 2008, the County Board of Supervisors adopted a resolution that extended the 2.5% longevity differential for 15 years of service to more than 1,000 unrepresented supervisory and managerial employees of the District. This effectively extended the differential to all unrepresented management employees of the District, except those in the represented Fire Management Unit. The Association filed a grievance, but the matter was not resolved. Subsequently, the Association filed an unfair practice charge alleging that the District interfered with the union and employee rights, and discriminated against them by treating them differently based on protected activity.

PERB discussed the difference between interference and discrimination charges. PERB noted that for interference, the focus is on the actual or reasonably likely harm of an employer's conduct to the protected rights of employees or employee organizations. Thus, to establish interference, the employee or employee organization does not need to prove the employer's motive, intent, or purpose. PERB noted that an interference violation will be found when the resulting harm to protected rights outweighs the business justification or other defense asserted by the employer.

In contrast, the employer's unlawful motive, intent, or purpose is necessary to establish a case for discrimination. A charge of discrimination will be sustained if the employee shows that the employer would not have taken the complained-of conduct but for an unlawful motivation, purpose, or intent.

PERB found that the District interfered with the Association and employee's protected rights in violation of the MMBA. PERB noted that the District expressly distinguished between represented and unrepresented employees as the basis for granting employment benefits. Thus, the District's conduct discouraged employees from participating in organization activities, which is a quintessential protected right under the MMBA. PERB rejected the District's affirmative defenses outright, and concluded that the resulting harm outweighed the District's explanations.

PERB also found that the District discriminated against employees by treating Association-represented employees differently from unrepresented employees. The District only offered the differential to unrepresented employees in order to maintain "separation" in employment benefits between represented and unrepresented employees. Thus, PERB concluded that the District's conduct provided direct evidence of motive and inherently discriminatory conduct sufficient to support a discrimination allegation.

PERB ordered the District to pay each eligible current and former member of the District's Fire Management Unit the 2.5% longevity differential for 15 years of service.

Contra Costa County Fire Protection District, PERB Decision No. 2632-M (2019).

NOTE:

This case illustrates that it is significantly easier for a union to establish interference rather than discrimination because the union does not need to prove the employer's motive. The employer's stated desire to pay represented and unrepresented groups differently because of their represented status, however, was sufficient evidence of a discriminatory motive in this case. LCW attorneys can advise agencies how to avoid or defend claims brought by unions for both interference and discrimination.

Although this case involved an interpretation of the Meyers Milias Brown Act, the bargaining statute that applies to cities, counties, and special districts, PERB frequently looks to decisions under the MMBA in interpreting the Educational Employment Relations Act.

RETIREMENT

Opportunity to Purchase "Air Time" is Not A Vested Contractual Right.

In 2003, the California Legislature enacted Government Code section 20909, which gave eligible CalPERS members the option to purchase up to five years of service credit. This meant that participating employees could receive pension benefits as if they had actually worked for up to an additional five years. To exercise this option, CalPERS members would pay an amount arrived at by actuarial estimates to cover the member and employer's liability for the additional service credit. This optional benefit was known as "air time."

Ten years later, the Legislature eliminated a member's option to purchase air time in the California Public Employees' Pension Reform Act of 2013. However, the change did not apply retroactively. Thus, those who purchased air time while it was available retained the additional service credit.

State firefighters brought suit through their union asserting that the opportunity to purchase air time was a vested right protected by the contract clause of the California Constitution and could not be eliminated during their employment. Under the "California Rule," public employee pension benefits vest on the first day of service

and cannot be reduced at any time during employment absent the introduction of an equally advantageous benefit.

The case presented two issues: 1) whether the opportunity to purchase air time was a constitutionally protected vested right; and 2) if so, whether PEPRA's elimination of the air time benefit constituted an unconstitutional impairment of public employees' contractual rights.

After deciding only the first of the two issues presented, the California Supreme Court held that the opportunity to purchase air time was not a vested right protected by the contract clause of the California Constitution. The Court reasoned that the 2003 statute did not reflect the Legislature's intent to create a contractual right for public employees. The option for air time was not, unlike ordinary pension benefits, a contractually binding offer to induce an employee's continued service. The Court found no basis to conclude that the opportunity to purchase air time was a form of deferred compensation for an employee's work during any period of employment. The amount of additional credit was at the employee's discretion and not dependent on a corresponding amount of public service.

In its decision, the Court stated that "[w]e have never held, however, that a particular term or condition of public employment is constitutionally protected solely because it affects in some manner the amount of a pensioner's benefit." In doing so, the Court reaffirmed prior decisions holding that "a term and condition of public employment that is otherwise not entitled to protection under the contract clause does not become entitled to such protection merely because it affects the amount of an employee's pension benefit."

Because the Court held that the opportunity to purchase air time was not a vested right, it did not reach the second issue of whether PEPRA's elimination of the air time benefit unconstitutionally impaired the contractual rights of public employees. Addressing this issue would have given the Court the opportunity to modify, abandon, or affirm the California Rule. Therefore, the California Rule remains untouched.

Cal Fire Local 2881 v. California Public Employees' Retirement System, 244 Cal.Rptr.3d 149 (2019).

NOTE:

LCW previously reported on this case in a Special Bulletin drafted by Frances Rogers and Amit Katzir. In this case, the California Supreme Court declined to decide whether the California Rule for modifying pension benefits should remain intact. However, a number of additional cases involving the California Rule are awaiting review by the California Supreme Court. LCW will continue to update you regarding any new developments.

ELECTIONS

California Law Requiring Candidates For County Sheriff to be Qualified is Permissible.

Bruce Boyer filed an application to be placed on the ballot for Ventura County Sheriff in the upcoming primary election. Four days later, the County Clerk informed Boyer that he had not submitted the documentation required under California law to establish his qualifications.

Under California election law, in order to be a candidate for county sheriff, an individual must provide prove that he or she meets the qualifications listed in Government Code section 24004.3. That law provides that a candidate for sheriff must possess one of five combinations of education and law enforcement experience: 1) an active or

inactive advanced certificate issued by the Commission on Peace Officer Standards and Training; 2) one year of full-time, salaried law enforcement experience and a master's degree; 3) two years of full-time, salaried law enforcement experience and a bachelor's degree; 4) three years of full-time, salaried law enforcement experience and an associate's degree; or 5) four years of full-time, salaried law enforcement experience and a high school diploma.

Boyer argued that the election law and section 24004.3 were unconstitutional and that the County Clerk's refusal to place Boyer's name on the ballot denied citizens of their right to vote for officials of their own choosing. Boyer filed a request with the Ventura County Superior Court to command the County Clerk to name Boyer as a candidate.

The Superior Court denied Boyer's request, and the Court of Appeal affirmed. The Court of Appeal concluded that the candidacy requirements were not unconstitutional. First, the court noted that the California Constitution expressly gives the Legislature the power to set requirements for the elected office of county sheriff. Second, the court concluded that the requirements did not violate the First Amendment of the U.S. Constitution because they were nondiscriminatory and politically neutral. The court noted that the state has strong interest in assuring that individuals desiring to hold office are qualified. Thus, Boyer was not entitled to be placed on the ballot.

Boyer v. Ventura County, 2019 WL 1236050.

NOTE:

This case upholds the California Legislature's authority to require candidates for elected office to have relevant education and experience.

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.

- The EEOC and DOJ are now scrutinizing public employers and have formally agreed to cooperate to be more efficient in the enforcement of Title VII employment discrimination claims against state and local governments. (EEOC/DOJ Memo, 12/21/2018.)
- Employers can still enforce their drug free workplace policies even though the use of marijuana is legal in California. (See Health and Safety Code section 11362.45(f).)
- California law generally prohibits conducting pre-employment credit checks, except for specific categories of employees. (See Labor Code section 1024.5.)

BENEFITS CORNER

Plan Administrators May Encounter Issues with FSA Debit Cards.

The IRS issued an Information Letter (No. 2018-0032) responding to an inquiry regarding an FSA debit card that a medical facility, without a valid merchant category code ("MCC"), rejected. The letter addressed the question: Why didn't the IRS recognize the facility as qualified to receive the debit card payment? The IRS first explained that plan administrators must limit use of the FSA debit card to qualified medical providers, as identified by a certain MCC. An MCC is a four-digit number assigned to businesses for tax reporting purposes. The "MCC assigned to any provider

is determined by the provider and the debit card issuer." The IRS suggested the plan participant contact the plan administrator to explore other options for medical expense reimbursement, such as submitting a claim for reimbursement supported by third-party information.

This Information Letter is an example of a practical issue those administering Section 125 cafeteria plans may encounter. If a plan participant raises questions or issues regarding a rejected FSA debit card transaction, it is likely due to an invalid MCC. Plan administrators should direct the participant to the debit card issuer to resolve the issue.

When Can an Employer Recoup Mistaken Contributions to a Health Savings Account?

The IRS issued an Information Letter (No. 2018-0033) explaining the circumstances under which an employer may recoup mistaken contributions to a Health Savings Account ("HSA"). An HSA allows non-taxable employer contributions to pay for qualified medical expenses for those enrolled in High Deductible Health Plans. The general rule is that an employer cannot recoup deposited contributions to an HSA. However, the IRS noted some exceptions where an employer can recoup HSA contributions:

- When an employee was never eligible to enroll in an HSA to begin with;
- When an employer's contributions exceed the IRS maximum annual contribution limit, the employer can recoup the excess;
- When the employer maintains clear documentary evidence showing an administrative or process error. The IRS gave the following examples:
    - An amount withheld and deposited an amount into an employee's HSA for a pay period greater than the amount indicated on the employee's HSA salary reduction election.
    - An employer contributed an incorrect amount due to an incorrect decimal position, resulting in a greater contribution than intended.
    - An employer mistakenly contributes due to an incorrect spreadsheet or employees with similar names are confused with each other.
    - A payroll administrator incorrectly enters the amount.
    - An employer or payroll administrator transmits duplicate payroll files resulting in a second HSA contribution.
    - A change in employee payroll elections is not timely processed.
    - The system incorrectly calculates the contribution.

Employers in these situations could seek to correct the administrative errors and recoup contributions from the administering financial institution. The IRS emphasized that employers "should maintain documentation to support their assertion that a mistaken contribution occurred." Employers will still need to work with the HSA account administrator to request and actually recoup the contributions.

When Can Qualified Moving Expenses Be Excluded from Income?

Before the Tax Cuts and Jobs Act ("TCJA") employer's reimbursements for employees' qualified moving expenses would be nontaxable to employees and not reportable on the Form W-2. When the TCJA was enacted, it suspended this rule for tax years 2018 through 2025 (except for employees on active military duty).

In IRS Notice 2018-75, the IRS explained that moving expense payments for an employee's move in 2017 could be excluded from income if: (1) the expenses would have qualified for

the moving expense deduction if paid for by the employee in 2017; and (2) the employee has not taken a deduction for the expenses.

IRS Notice 2018-190 then explained that individuals who relocated in 2017, but received a reimbursement from their employer in 2018, could also exclude those qualifying moving expenses from the employee's 2018 wages.

However, for qualified moving expenses incurred during the 2018 tax year (and through 2025), employers can no longer exclude these expenses from reporting on an employee's Form W-2. In other words, employer's reimbursements for an employee's qualified moving expenses are now taxable wages to the employee.

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LCW Webinar: Hot Topics in FLSA Litigation & Settlements

Tuesday, May 7, 2019 | 10 AM - 11 AM

Presented by:

Elizabeth Tom Arce

Public agencies are continuing to face wage and hour lawsuits or threats of litigation for violation of the Fair Labor Standards Act (FLSA). However, defending against FLSA litigation presents unique challenges as they often impact labor relations, human resources, finance and payroll. Join us for a webinar to learn about the latest trends in FLSA litigation and settlements to help you navigate through these lawsuits.

Who Should Attend?

Supervisors, Managers, Department Heads, Human Resources Staff, Finance/ Payroll and IT staff responsible for ensuring compliance with the FLSA

Workshop Fee: *Consortium Members: $75, Non-Members: $150*

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Please note: by adding your name to the e-mail distribution list, you will no longer receive a hard copy of our ***Education Matters*** newsletter.

If you have any questions, contact Selena Dolmuz at 310.981.2000 or info@lcwlegal.com.

NEW TO THE FIRM

Megan Atkinson joins our Los Angeles office where she represents public entities in labor and employment law matters. She regularly defends against claims of discrimination, harassment, retaliation, and wage and hour violations. She litigates in both state and federal court and has experience from pre-litigation through trial. In 2018, she served as second chair in a nine-week jury trial. Megan was selected as a 2019 Southern California Rising Star by Super Lawyers.

She can be reached at 310.981.2058 or matkinson@lcwlegal.com.

Antwoin Wall joins our Los Angeles office where he assists and represents clients in matters pertaining to labor and employment law and litigation. His career background has a strong foundation in the public sector. Antwoin assists counties, cities, and public agencies in a full array of employment matters, including claims of discrimination, harassment, retaliation, wrongful termination, breach of contract, and wage and hour litigation.

He can be reached at 310.981.2084 or awall@lcwlegal.com.

Sung (Sean) Kim joins our Los Angeles office where where he provides representation and counsel to clients in litigation matters. As an experienced litigator, Sean has extensive experience in all aspects of the litigation process, including trials.

He can be reached at 310.981.2062 or skim@lcwlegal.com.

FIRM PUBLICATIONS

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

"Is the Holiday Over? California Public Agencies May Face a Barrage of FLSA Lawsuits for Holiday Pay" quote by Partner **Jesse Maddox** and Associate **Bryan Rome** of our Fresno and Sacramento offices, appeared in the April 3, 2019 issue of the *Daily Journal.*

Firm Activities

Consortium Training

May 3 **"An Employment Relations Primer for Community College District Administrators and Supervisors"**
Central CA CCD ERC | Webinar | Eileen O'Hare-Anderson

May 9 **"Leaves, Leaves and More Leaves"** & **"Privacy Issues in the Workplace"**
East Inland Empire ERC | Fontana | Mark Meyerhoff

May 9 **"Public Service: Understanding the Roles and Responsibilities of Public Employees"**
Gateway Public ERC | Long Beach | Laura Drottz Kalty & Jolina A. Abrena

May 9 **"Legal Issues Regarding Hiring and Promotions"**
LA County HR Consortium | Los Angeles | Geoffrey S. Sheldon

May 9 **"Labor Negotiations From Beginning to End"** & **"Human Resources Academy II"**
North State ERC | Chico | Gage C. Dungy

May 9 **"Supervisor's Guide to Public Sector Employment Law"**
San Diego ERC | Coronado | Stephanie J. Lowe

May 10 **"Bringing Our Communities Together for Effective Compliance with Title IX, Clery and SaVE"**
SCCCD ERC | Anaheim | Pilar Morin & Jenny Denny

May 15 **"Workers Compensation: Managing Employee Injuries, Disability and Occupational Safety"**
Sonoma/Marin ERC | Rohnert Park | Rick Goldman

May 16 **"Maximizing Performance Through Evaluation, Documentation and Corrective Action"** & **"Managing the Marginal Employee"**
Orange County Consortium | Tustin | Mark Meyerhoff

May 21 **"So You Want To Be A Supervisor"**
North San Diego County ERC | San Marcos | Kristi Recchia

May 22 **"Human Resources Academy I"** & **"The Future is Now - Embracing Generational Diversity and Succession Planning"**
NorCal ERC | Pittsburg | Lisa S. Charbonneau

May 23 **"Creating a Culture of Diversity in Hiring, Promotion and Supervision"** & **"Public Service: Understanding the Roles and Responsibilities of Public Employees"**
Coachella Valley ERC | Indio | Kristi Recchia

May 23 **"Difficult Conversations"**
San Mateo County ERC | San Mateo | Erin Kunze

May 23 **"Supervisor's Guide to Public Sector Employment Law"**
South Bay ERC | Torrance | Mark Meyerhoff

May 29 **"12 Steps to Avoiding Liability"** & **"Human Resources Academy II"**
Gold Country ERC | Elk Grove | Gage C. Dungy

May 30 **"Implicit Bias"** & **"Human Resources Academy II"**
Imperial Valley ERC | El Centro | Kristi Recchia

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.

May 3 **"Preventing Harassment, Discrimination and Retaliation in the Academic Setting/Environment"**
West Valley Mission Community College District | Saratoga | Lisa S. Charbonneau

May 6 **"Preventing Workplace Harassment, Discrimination and Retaliation"**
Town of Truckee | Jack Hughes

May 8,9 **"Performance Management and Evaluation Process"**
Mendocino County | Ukiah | Jack Hughes

May 9 **"Preventing Workplace Harassment, Discrimination and Retaliation"**
City of Glendale | Jenny Denny

May 9,10 **"Preventing Workplace Harassment, Discrimination and Retaliation"**
Merced County | Merced | Michael Youril

May 13 **"Workplace Bullying: A Growing Concern"**
City of Campbell | Casey Williams

May 14 **"Ethics in Public Service"**
City of Mission Viejo | Stephanie J. Lowe

May 22 **"Conducting Disciplinary Investigations: Who, What, When and How"**
City of Stockton | Gage C. Dungy

May 23 **"Preventing Workplace Harassment, Discrimination and Retaliation"**
City of Fremont | Jack Hughes

May 28 **"Preventing Workplace Harassment, Discrimination and Retaliation"**
City of Glendale | Laura Drottz Kalty

May 28 **"Keenan SWAAC Training: Performance Management"**
Keenan | Lake Tahoe | Eileen O'Hare-Anderson

May 29,30 **"Preventing Workplace Harassment, Discrimination and Retaliation"**
Merced County | Merced | Che I. Johnson

May 30 **"Preventing Workplace Harassment, Discrimination and Retaliation"**
City of Morgan Hill | Casey Williams

Speaking Engagements

May 3 **"Civility, Communication, Conflict Management in the Workplace"**
Community College League of California (CCLC) Executive Assistants Workshop | Olympic Valley | Kristin D. Lindgren

May 15 **"Harassment Training"**
League of California Cities Webinar | Webinar | Gage C. Dungy

Seminars/Webinars

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

May 7 **"Hot Topics in FLSA Litigation & Settlements"**
Liebert Cassidy Whitmore | Webinar | Elizabeth T. Arce

May 16 **"The Public Employment Relations Board (PERB) Academy"**
Liebert Cassidy Whitmore | Fresno | Che I. Johnson & Kristi Recchia

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