LCW Liebert Cassidy Whitmore

Client Update

Monthly news and developments in employment law and labor relations for California Public Agencies.

January 2018

INDEX

LCW NEWS

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

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RETALIATION

Paid Administrative Leave May Constitute Adverse Employment Action.

The California Court of Appeal allowed an employee's whistleblower retaliation claim to proceed on the theory that being placed on paid administrative leave constituted an adverse employment action.

The employee in the case, Mary Ann Whitehall, was a social worker for the San Bernardino County Children and Family Services ("CFS"). CFS assigned Whitehall to investigate the living conditions of four children who were placed in protective custody following the death of their infant sibling under suspicious circumstances. Whitehall collected evidence - including law enforcement and medical reports, and photos - that suggested that the children had been neglected and physically abused. The deputy director of CFS instructed Whitehall to withhold certain photos and alter others. Whitehall then learned CFS had not provided a complete police report to the court that was handling the children's case. Whitehall provided the Deputy County counsel a copy of all photos she had obtained from the police. CFS then removed Whitehall from the case and instructed her not to discuss the case with the new investigator (contrary to normal practice). Around the same time, CFS fired the social worker, who investigated the death of the infant, for allegedly exaggerating the poor condition of the children's home, even though his description was corroborated by another social worker.

Concerned about possible liability for having submitted altered photos in the case, Whitehall then filed a motion to inform the juvenile court that CFS had perpetrated a fraud upon the court. At this point, CFS placed Whitehall on paid administrative leave pending investigation of whether she violated county rules and policies prohibiting disclosure of confidential information when she gave the photos to the Deputy County Counsel, and filed the motion in the juvenile court. After two months on paid administrative leave, the County decided to fire Whitehall, but she resigned to avoid the termination. She then sued, claiming that the County violated Labor Code section 1102.5, which prohibits employers from retaliating against an employee who discloses improper government activity.

The appellate court found that the paid administrative leave constituted an adverse action under the circumstances of the case, and denied the County's motion to strike Whitehall's claims. The court did not find that paid administrative leave always constitutes an adverse employment action;

instead, each case turns on its own facts. As the court noted,

> *"The impact of an employer's action in a particular case must be evaluated in context. ...an adverse employment action must materially affect the terms, conditions, or privileges of employment to be actionable, the determination of whether a particular action or course of conduct rises to the level of actionable conduct should take into account the unique circumstances of the affected employee as well as the workplace context of the claims."*

After Whitehall, when an employee is placed on paid administrative leave, courts will look at the effects of the paid administrative leave to determine whether being away from the workplace is "a substantial adverse change in the terms and conditions" of employment. Other factors courts may consider to determine whether paid administrative leave is an adverse action may include: loss of promotional opportunities, loss of specialty pay, loss of opportunities to gain work experience, whether the employer had a legitimate reason to place the employee on leave, and whether the employee participated in protected activity prior to when he or she was placed on paid administrative leave.

Whitehall v. County of San Bernardino (2017) 17 Cal.App.5th 352.

NOTE:

The Whitehall *case requires employers to give greater consideration to the circumstances in which paid administrative leave could be considered an adverse action. Here, two months of paid administrative leave pending an investigation was held to be an adverse action because there was little to investigate about Whitehall's disclosure of accurate information to either the deputy county counsel who was handling the case, or to the juvenile court. A more in- depth discussion of the authorities governing paid administrative leave in California is available here:* http://bit.ly/2CYGIJM.

Employer Reasonably Relied on Workplace Investigation When It Decided to Terminate Manager.

The California Court of Appeal dismissed a lawsuit brought by a manager who claimed he was wrongfully terminated. In *Jameson v. PG&E*, PG&E moved for summary judgment on the basis that it terminated Jameson for good cause. It was PG&E's burden to show it acted reasonably and in good faith after making an appropriate investigation into Jameson's actions. The appellate court affirmed that employers may defend against wrongful termination claims by showing that the termination decision was made in good faith after an appropriate investigation, and for reasons that are not arbitrary or pretextual.

In reaching this conclusion, the appellate court reiterated well-settled legal principles relating to employer reliance on workplace investigations. The appellate court noted that on a motion for summary judgment, courts will not reexamine the underlying facts whether, for example, Jameson actually retaliated against an employee. Rather, the court will consider whether the employer had reasonable grounds for believing Jameson retaliated, after an appropriate investigation. Nor are employers required to use a specific investigation method, as long as the method used is fair. The court cited the California Supreme Court decision in *Cotran v. Rollins Hudig Hall Intern. Inc.* which held that fairness in the investigation process "contemplates listening to both sides and providing employees a fair opportunity to present their position and to correct or contradict relevant statements prejudicial to their case, without the procedural formalities of a trial."

In this case, the appellate court reiterated the factors that courts will consider when deciding whether the standard for investigative fairness is met.

"Three factual determinations are relevant to the question of employer liability: (1) did the

employer act with good faith in making the decision to terminate; (2) did the decision follow an investigation that was appropriate under the circumstances; and (3) did the employer have reasonable grounds for believing the employee had engaged in misconduct."

The appellate court affirmed the trial court's determination that PG&E's investigation met all these criteria, such that PG&E's decision to terminate Jameson was made in good faith.

In this case, Paul Nelson, a PG&E employee responsible for supervising the testing of gas transmission pipes, reported a safety concern. Nelson was then assigned to another testing site. Nelson complained to PG&E management representatives that Jameson and others were retaliating against him for making a health and safety report.

In response to Nelson's complaint of retaliation, PG&E retained an outside investigator. The investigator interviewed ten people over a two-month period. The investigator also interviewed several individuals who, per Jameson, would support Jameson's claim that he removed Nelson from his construction sites because of Nelson's poor performance.

The investigator issued a report that found Jameson retaliated against Nelson in violation of PG&E's code of conduct. Specifically, the report found that Jameson began complaining about Nelson's performance only after Nelson reported unbarricaded pressurized gas lines, and that Jameson did so in retaliation for Nelson's report of that unsafe condition. The conclusion was based on information gained during the investigation. For example, the witnesses offered by Jameson contradicted both his claims that Nelson's performance was poor, and that Jameson had expressed concerns with Nelson's performance before Nelson made his report. The investigator also found that the evidence suggested that Jameson falsely claimed that Nelson had conflicts with PG&E contractors to get Nelson transferred out of the area of Jameson's construction sites. PG&E considered the investigation report and decided to immediately terminate Jameson.

The court thus rejected Jameson's claims that a disputed issue of material fact existed simply because the investigator did not interview every witness Jameson offered. The investigator provided valid reasons for not interviewing those witnesses, and there was no evidence the investigator failed to interview those witnesses for an improper reason. Thus, the trial court properly granted summary judgment for PG&E and the appellate court affirmed the trial court.

Jameson v. Pacific Gas and Electric Company (2017) 16 Cal. App.5th 901.

NOTE:

Jameson *and* Cotran *stand for the principle that courts will not second guess whether an employer's investigation could have been more thorough or effective, as long as the investigative process is inherently fair. If this criterion is met, an employer's investigative efforts may serve a basis for defending against an employee's wrongful termination claim. LCW has many attorneys who can conduct sound workplace investigations and/or advise your agency about how to respond to an investigation report.*

MILITARY LEAVE

Pilot is Awarded Signing Bonus He Would Have Earned Had He Not Taken Military Leave.

The Ninth Circuit federal appellate court confirmed that courts must consider an employee's career trajectory (escalator principle), and what position the employee would have attained if not for taking leave for military service, in determining entitlement to employment benefits.

The case involved claims brought under the Uniformed Services Employment and

Reemployment Rights Act ("USERRA"). The USERRA is a federal statute designed to ensure that employees are not adversely affected in their employment when they take leave to serve in the military.

Dale Huhmann worked for Federal Express (FedEx) as a pilot. A pilot's pay grade is determined by the type of aircraft the pilot flies, and the pilot's role in flying the aircraft. Before he departed for military service, Huhmann was selected to train as a first officer on an MD-11 aircraft; an assignment that would qualify him for a higher pay grade.

Training for the MD-11 pilot position was to begin on February 19, 2003. However, on February 7, 2003, Huhmann was called to active Air Force duty: he was deployed on August 31, 2003. At the time Huhmann began his military service, he was still piloting a Boeing 727. He did not return to FedEx active status until December 1, 2006, more than three years after he would have begun training on the MD-11.

While Huhmann was serving in the U.S. Air Force, FedEx issued a letter to the labor union representing Huhmann and other pilots. FedEx offered a signing bonus to FedEx employees upon ratification of the parties' proposed collective bargaining agreement. The bonus would be paid to pilots employed on the day the CBA was signed, including pilots on military leave. A pilot's signing bonus would be determined in part by the class of aircraft on which they were a crew member. The signing bonus for a crew member on a 727 aircraft was $7,400, while the bonus for crew on an MD-11 aircraft was $17,700.

Upon Huhmann's return from military duty, FedEx paid him a $7,400 signing bonus, not the $17,700 bonus. Huhmann restarted his training to become a pilot on the MD-11. Some pilots are unable to successfully complete the training program. However, Huhmann completed the required ground school sessions, flight simulator trainings and "check ride" in which an instructor observed his flight performance. He was approved to fly the MD-11 on February 22, 2007.

Huhmann sued FedEx, claiming that FedEx violated the USERRA when it denied him the $17,700 bonus he would have earned had he not served in the military, and completed the MD-11 training prior to deployment.

The key question the court decided was whether Huhmann was denied any "benefit of employment" due to his military service, in violation of the USERRA. An employee making such a claim is responsible for proving that their military service status was a "substantial or motivating factor in the adverse employment action"; here, the adverse action was Fed Ex's decision to pay a lesser bonus amount. An employer can defend a USERRA claim by showing that it would have made the particular decision at issue regardless of whether the employee served in the military.

The trial court applied a two-step analysis to determine whether Huhmann was entitled to be paid the $17,700 bonus that upon his return from service: the "escalator principle" and the "reasonable certainty" test.

First, under the escalator principle, the court reasoned that under USERRA, a member of the military should not be removed from the normal progress of his or her "career trajectory" but must be returned to the same position of employment in which he or she would have been employed if their employment had not been interrupted by military service. (38 U.S.C. § 4313(a)(2)(A).) This principle presumes that employees will advance upward in their career trajectories as predictably as if they were standing on an upward moving staircase.

Second, the trial court applied the "reasonably certain test" which asks two questions: 1) Whether, looking forward, it is reasonably certain that employees who complete training regularly advance in their career, and 2) Whether in hindsight, an employee did in fact advance,

or would have probably advanced, if training or employment was not interrupted by military service.

The federal trial court found that, applying these standards, Huhmann was entitled to the $17,700 bonus applicable to MD-11 pilots. Under the first, forward-looking aspect of the reasonable certainty test, the court found that while qualifying to pilot an MD-11 aircraft is challenging and some trainee pilots fail, trainees are provided multiple opportunities to pass exams. Under the second prong, Huhmann did in fact pass his training exams upon returning from military service and began working as an MD-11 pilot after reemployment with FedEx. The trial court therefore found for Huhmann – FedEx should have paid him the higher bonus.

On FedEx's appeal, the Ninth Circuit confirmed that the trial court appropriately applied this two-step analysis to find that Huhmann was entitled to the higher bonus amount. This is so, because the escalator principle and reasonable certainty test are incorporated into federal regulations. Additionally, Section 4311 of the USERRA explicitly states that "A person who… has an obligation to perform service in a uniformed service shall not be denied employment, reemployment,…or any benefit of employment by an employer on the basis of that membership…performance of service…or obligation." 38 U.S.C. § 4311 (a). The USERRA defines a bonus as a benefit of employment. It states, a "benefit of employment" includes "any advantage, profit, privilege, gain, stats, account or interest…that accrues by reason of an employment contract or agreement…and includes…bonuses." (38 U.S.C. § 4303(2).)

Thus, the plain language of the USERRA prohibited FedEx from denying Huhmann the bonus, an employment benefit, to which he would have been entitled had he not left employment to serve in the military.

Huhmann v. Federal Express (2017) 874 F.3d 1102.

NOTE:

Agencies should be aware that the California Military and Veterans Code (MVC) also governs public employees who take leave to serve in the military. The MVC and USERRA govern issues such as: an employee's entitlement to health insurance, vacation and sick leave benefits while on military leave; whether or not an employee is entitled to reemployment upon returning from military service; and what obligation, if any, an employer has to pay an employee's salary while the employee is on leave to complete military service. As this case illustrates, a failure to complete a qualifying test because of military service is an insufficient reason to deny an employment benefit.

DISCRIMINATION

Employer Has Obligation to Act When It Knows or Should Have Known That a Drunken Trespasser was Harassing Employees.

A hotel housekeeper asserted viable claims under the Fair Employment and Housing Act ("FEHA") when she claimed that her employer failed to take reasonable steps to prevent a trespasser from sexually harassing and assaulting her.

Under the FEHA, an employer may be liable for sexual harassment committed by a non-employee. Liability may exist if the employer, or the employer's agents or supervisors, know or should have known of the non-employee's harassing conduct, and fail to take immediate and appropriate corrective action. To determine liability, a court will consider the extent of the employer's control over the non-employee, and any other legal responsibility over the non-employee. The FEHA also creates liability for failure to prevent sexual harassment if an employee proves a claim of harassment, and also proves that the employer failed to take all reasonable steps necessary to prevent harassment from occurring.

In this case, the employee, M.F., was working as a hotel housekeeper at Pacific Pearl Hotel ("Hotel"). A man who was not an employee or guest of the hotel walked around various buildings within the hotel premises. A hotel manager saw the trespasser walking around drunk and with a beer in his hand. The manager later saw the trespasser around various areas on the hotel premises, including a hotel balcony, several floors of a hotel building and a hotel elevator. The manger did not ask the trespasser to leave or report the trespasser to authorities.

While on the premises, the trespasser approached two housekeepers and made sexual advances toward them. The second housekeeper reported the trespasser to housekeeping management. Housekeeping management alerted other housekeeping mangers to the trespasser's activities and location. Various Hotel managers and supervisors attempted to check hotel buildings to ensure the safety of the Hotel's housekeepers. However, they did not check the floor of the building in which M.F. was working and did not attempt to locate her to ensure her safety. After he had been on the Hotel premises for about an hour, the trespasser forced his way into the hotel room where M.F. was working and sexually assaulted her over a period of several hours. No one from the Hotel attempted to locate M.F. during this period of time. When M.F. phoned Hotel housekeeping after the trespasser had finally departed, M.F.'s call went unanswered. M.F. subsequently phoned law enforcement to come to her aid.

M.F. asserted that the facts she presented in her complaint were enough to state a FEHA claim against the Hotel. The Hotel asserted that it could not be liable because M.F. did not present enough facts to show that the Hotel knew or should have known that the trespasser would sexually harass M.F. before the time the trespasser appeared at the Hotel property. However, as the Court noted, the Hotel did become aware of the trespasser's harassing conduct once he was on the Hotel premises, and certainly after he harassed other housekeeping employees. At that point, the court found, the Hotel had a legal obligation to take remedial measures to prevent the trespasser's harassment of M.F.

The court further noted that once an employer is informed of sexual harassment, as the Hotel was in this case, the employer must take immediate corrective action that is reasonably calculated to end the current harassment as well as deter future harassment. This means an employer may have to take temporary initial steps to address the situation while it determines whether the harassment complaint is justified, and then adopt permanent remedial steps to prevent future harassment. The court therefore rejected the Hotel's argument that it was relieved of its legal obligations to protect M.F. from harassment merely because the trespasser's initial harassing conduct wasn't directed toward her. The Hotel knew of the trespasser's abusive, harassing conduct toward women, and it therefore had an obligation under FEHA to take steps to protect potential future victims, including M.F. Because the appellate court found that the trial court had incorrectly dismissed M.F.'s FEHA claims, it reversed the trial court and allowed M.F.'s claims to proceed.

M.F. v. Pacific Pearl Hotel Management LLC (2017) 16 Cal. App.5th 693.

NOTE:

This case only addressed whether M.F.'s complaint asserted viable FEHA claims. Whether an employer knows or should have known of a non-employee's sexually harassing conduct, or takes adequate measures to prevent future harassment depends on the facts of each case. Public employers need to protect employees from harassment that originates from members of the public or vendors who come onto the public employer's property.

Court May Award Additional Money to a Prevailing Title VII Litigant to Account for Tax Liability on Lump Sum Damages Award..

If an employee prevails in a Title VII employment discrimination claim and recovers damages in the form of a lump sum payment, the trial court judge has discretion to adjust the award upward to account for the income taxes that will be assessed against the employee – a practice that is also known as a "gross up".

In this case, the employee, Arthur Clemens, prevailed on his claims that his employer committed race discrimination and retaliation in violation of Title VII. The jury awarded Clemens lost wages and benefits and damages in a single lump sum payment. However, Title VII back-pay awards are taxable as income. Clemens therefore requested additional money to make up for the income tax liability that he would experience due to receiving the jury's award. The trial court denied Clemens' request, but the Ninth Circuit reversed the trial court on Clemens' appeal.

On appeal, the Ninth Circuit held that a judge hearing a Title VII case has authority to award a "gross up" in the interest of equity, to put a prevailing Title VII employee in the same position he would have been in if not for the employer's discriminatory action, and also to account for the tax liability that may result from a lump sum payment.

This decision does not mean that a prevailing Title VII employee is automatically entitled to an increase in a back pay award. The employee has the burden of demonstrating to the court that the employee will be assessed income tax that justifies any upward adjustment of the recovery amount. The decision whether to award a "gross up" is at the discretion of the trial court judge who may decide that a gross up is not warranted where, for example, the amount of the gross up is hard to determine or is negligible in amount.

Clemens v. Qwest, Corp. (2017) __Fed.Appx.__.

Supervisor in Harassment Litigation Must Prove Subordinate's Allegations Were "Frivolous" in Order to Recover His Defense Costs.

A supervisor is not entitled to recover attorneys' fees for defending against an employee's harassment lawsuit unless the supervisor proves that the lawsuit meets the "frivolous" standard. Specifically, individual defendants in harassment cases, like employers, must show that the employee's harassment claims are "frivolous, unreasonable, or without foundation" if they are to recover their litigation costs from an unsuccessful employee plaintiff.

Elisa Lopez, sued her employer, the City of Beverly Hills ("City"), and her supervisor, Gregory Routt, for harassment based on race and national origin. The jury found in favor of the City and Routt. At the conclusion of the trial, Routt sought to utilize a provision of the law decided under the California Fair Employment and Housing Act (FEHA) that allows a prevailing defendant to recover attorneys' fees from an unsuccessful Plaintiff.

Routt argued that an individual defendant should not have to meet the same "frivolous" standard that employers have to meet. However, as the court reiterated, the FEHA requires a defendant – whether the employer or an individual defendant – to demonstrate that a harassment lawsuit has no legal or factual basis. This frivolous standard is a difficult test to meet and the trial court judge has discretion to grant, or deny a defendant's request for fees. The trial court in this case found, and the appellate court agreed, that Routt had not demonstrated that Lopez' lawsuit was unreasonable or frivolous.

The appellate court also confirmed that the FEHA allows a plaintiff to hold individual employees (such as coworkers or supervisors) personally liable for harassment, regardless of whether an employer knew or should have known of the harassing conduct. The court noted that this is consistent with the FEHA's of deterring harassment.

Lopez v. Routt (2017) 17 Cal.App.5th 1006.

NOTE:

As this case illustrates, even if an employee's allegations are weak or specious, it may not be possible to prove that the claims are also "frivolous." This case reinforces the advice that the best approach is avoid litigation altogether by refraining from any comments or conduct that are based on any employee's race, sex, age, national origin, or any other protected status.

FAMILY AND MEDICAL ACT LEAVE

Sixth Circuit Grants Summary Judgment for City on Claims of Interference with Family and Medical Leave Act Rights.

The Sixth Circuit Court of U.S. Court of Appeals, dismissed a City Manager's claim that the City of Belding, Michigan ("City") terminated her in violation of her right to take leave under the Federal Family and Medical Leave Act ("FMLA"). The court granted the City's motion for summary judgment because the manager's evidence was inadequate to show that she was terminated because she took FMLA leave, and the City provided evidence of its legitimate, non-discriminatory reason for the termination, which the City Manager did not disprove.

Under the FMLA, eligible employees of a covered entity may take job protected leave to attend to the employee's own serious health condition. The FMLA makes it unlawful for employers to interfere with an employee's attempt to exercise their rights under the FMLA.

In this case, City Manager Margaret Mullendore, was an at-will employee hired under an employment contract that allowed the members of the City Council to vote to terminate her employment, at any time, subject to certain conditions. Although the City had renewed Mullendore's contract several times, her work performance also drew criticism from several citizens. Some members of the City Council were also displeased with her leadership.

In late 2014, one Council Member announced his intention to terminate Mullendore's employment. Thereafter, in January 2015, Mullendore provided Council Members with a memorandum stating that she would be undergoing a medical procedure and that she intended to work from home for a period of time.

While Mullendore was on leave, the City Council passed a motion to terminate her employment. Mullendore sued, claiming that the Council terminated her because she took FMLA leave. The City asserted that its decision to terminate Mullendore occurred before she announced her surgery, and that the City Council made the decision to terminate her because it was dissatisfied with her work performance, and found her to be a politically divisive manager.

An employee may only prevail on a claim of an employer's interference with FMLA rights if the employee proves five elements: the employee is eligible for FMLA leave; the employer is covered by the FMLA; the employee is entitled to take FMLA leave; the employee gave notice of her intent to take FMLA leave; and the employer denied the employee FMLA leave to which the employee was entitled. Even if the employee proves all five elements, an employer may defend such a claim by providing a legitimate reason for its conduct, unrelated to the employee's request for leave. If the employer presents a legitimate reason for its decision, an employee must prove that the employer's reason is pretextual.

The court determined that, even if Mullendore's memorandum reasonably notified City Council of her desire to take FMLA leave, Mullendore failed to present evidence that raised an issue for the jury on the question whether she was terminated because she requested FMLA leave. Mullendore's evidence merely demonstrated that she was terminated while she was on leave, not

that she was terminated because she requested FMLA leave. She failed to present any evidence that showed the City's reasons for terminating her (performance concerns and political divisiveness) was a pretext for an unlawful motive to deprive her of her rights under the FMLA.

Thus, the Sixth Circuit affirmed the trial court's decision to grant summary judgment in favor of the City and dismiss Mullendore's FMLA interference claims.

Mullendore v. City of Belding (6th Cir. 2017) 872 F.3d 322.

NOTE:

This case demonstrates how important it is for an employer to promptly take action about an employee's poor performance. Had the City Councilmember delayed discussion of the performance issues in this case until after the City Manager's leave, the court might have found that the City's reasons for termination were pretextual.

CONFLICTS OF INTEREST

Right to Enforce Government Code Section 1090 Conflict of Interest Claims Extends to Taxpayers, and Not Just the Actual Parties to the Contract.

Taxpayers of a municipality have a legal right to assert claims under Government Code section 1090, which prohibits conflicts of interest in public contracting. In this case, the court of appeal confirmed that taxpayers of a municipality have a legal right, or legal "standing," to bring lawsuits to enforce Government Code section 1090, thereby reconciling somewhat divergent legal decisions on this issue.

Government Code section 1090 prohibits public officials, such as city employees, from having a personal financial interest in contracts they enter into in their official capacity on behalf of the city. Government Code section 1092 provides that a contract that violates section 1090, may be avoided by "any party."

The City of San Diego adopted an ordinance and resolution that would authorize the issuance of bonds to refinance existing bonds. A non-profit group, San Diegans for Open Government ("SDOG") sued the City, claiming that members of the City financing team who prepared the 2015 bonds held a financial interest in the sale of the bonds, in violation of Section 1090.

The trial court had found that SDOG did not have "standing" to sue the City for an alleged violation of section 1090's prohibition on conflicts of interest. The appellate court reversed the trial court, citing precedents and policy concerns which, in the court's view, required a broad reading of section 1090. The appellate court noted, for example, that the policies reflected in 1090 dictate that enforcement of section 1090 was not intended to be limited to the parties to the contract being challenged. The court also noted that many court decisions have assumed that taxpayers do not have standing to challenge contracts made in violation of section 1090 because of section 1092's reference to "any party", and without actually interpreting the law. Thus, the appellate court found, SDOG was a "party" because it had a sufficient interest in the contract to support standing to sue the City for alleged violation of Section 1090.

San Diegans for Open Government v. Public Facilities Financing Authority for the City of San Diego (2017) 242 Cal.App.4th 416.

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TRAIN THE TRAINER REFRESHER SESSIONS

LOS ANGELES - JANUARY 12, 2018

Time: **9:00 a.m. - 12:00 p.m.**

Location: **Liebert Cassidy Whitmore Offices**

Cost: **$1,000 each or $900 each if ERC Member**

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If you have attended one of LCW's previous Train the Trainer sessions, you are eligible to attend the Refresher course.

ATTENDEES WILL RECEIVE:

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- Guide, PowerPoint slides and case studies (on CD and hard copy) complete with detailed speakers' notes for use in their future presentations
- Participant Guide for distribution in their future presentations
- Legal updates, where warranted, through 2020, including updated slides and facilitator / participant guides
- Certificate of Attendance for "Train the Trainer session"

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Visit https://www.lcwlegal.com/events-and-training/webinars-seminars for more information and to register online. Please contact Anna Sanzone-Ortiz at ASanzone-Ortiz@lcwlegal.com or 310.981.2051 for more information on how to bring this training to your agency.

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Next Class:

Bargaining Over Benefits

January 31, 2018 | Fullerton, CA

Benefit provisions continue to get complicated with retirement, health, FLSA compliance, IRS compliance, retiree medical, and leaves of absence. Understanding the interplay of state and federal laws and MOU provisions is important – let us uncomplicated some complicated subjects, provide tips for compliance, and offer strategies for your agency to consider.

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MANAGEMENT TRAINING WORKSHOPS

Firm Activities

Consortium Training

Jan. 11 **"A Guide to Implementing Public Employee Discipline"** and **"Public Sector Employment Law Update"**
East Inland Empire ERC | Fontana | Mark Meyerhoff

Jan. 11 **"Issues and Challenges Regarding Drugs and Alcohol in the Workplace" and "Leaves, Leaves and More Leaves"**
San Diego ERC | Carlsbad | Mark Meyerhoff

Jan. 11 **"Workplace Bullying: A Growing Concern"**
South Bay ERC | Gardena | Laura Kalty & Alison R. Kalinski

Jan. 17 **"Introduction to the FLSA" and "Supervisor's Guide to Public Sector Employment Law"**
Bay Area ERC | Palo Alto | Lisa S. Charbonneau

Jan. 17 **"Leaves, Leaves and More Leaves"**
Los Angeles County Human Resources Consortium | Los Angeles | Mark Meyerhoff

Jan. 18 **"Risk Management Skills for the Front Line Supervisor"** and **"Preventing Workplace Harassment, Discrimination and Retaliation"**
Coachella Valley ERC | La Quinta | Christopher S. Frederick

Jan. 18 **"Public Service: Understanding the Roles and Responsibilities of Public Employees"**
Gateway Public ERC | Huntington Park | Laura Kalty

Jan. 18 **"Moving Into The Future" and "A Supervisor's Guide to Labor Relations"**
North San Diego County ERC | Carlsbad | T. Oliver Yee

Jan. 18 **"Employees and Driving"**
San Mateo County ERC | Webinar | Gage C. Dungy

Jan. 18 **"Navigating the Crossroads of Discipline and Disability Accommodation"** and **"Preventing Workplace Harassment, Discrimination and Retaliation"**
West Inland Empire ERC | Diamond Bar | Mark Meyerhoff & Kevin J. Chicas

Jan. 24 **"The Art of Writing the Performance Evaluation" and "Prevention and Control of Absenteeism and Abuse of Leave"**
Central Valley ERC | Clovis | Michael Youril

Jan. 31 **"Public Service: Understanding the Roles and Responsibilities of Public Employees"**
Gold Country ERC | Placerville | Heather R. Coffman

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Gold Country ERC | Webinar | Heather R. Coffman

Jan. 31 **"Public Service: Understanding the Roles and Responsibilities of Public Employees"**
North State ERC | Webinar | Heather R. Coffman

Jan. 31 **"Public Service: Understanding the Roles and Responsibilities of Public Employees"**
Ventura/Santa Barbara ERC | Webinar | Heather R. Coffman

Feb. 1 **"The Art of Writing the Performance Evaluation"**
Gateway Public ERC | Commerce | T. Oliver Yee

Feb. 1	**"Disciplinary and Harassment Investigations: Who, What, When and How"** San Gabriel Valley ERC | Alhambra | Hengameh S. Safaei
Feb. 1	**"The Disability Interactive Process"** San Gabriel Valley ERC | Alhambra | Jennifer Rosner
Feb. 7	**"Maximizing Supervisory Skills for the First Line Supervisor"** South Bay ERC | West Hollywood | Kristi Recchia
Feb. 8	**"The Future is Now - Embracing Generational Diversity and Succession Planning"** and **"Difficult Conversations** Imperial Valley ERC | Imperial | Frances Rogers
Feb. 8	**"Navigating the Crossroads of Discipline and Disability Accommodation"** Los Angeles County Human Resources | Los Angeles | Jennifer Rosner
Feb. 8	**"Maximizing Supervisory Skills for the First Line Supervisor"** San Mateo County ERC | Menlo Park | Kelly Tuffo
Feb. 8	**"Public Sector Employment Law Update"** Sonoma/Marin ERC | Rohnert Park | Richard S. Whitmore
Feb. 8	**"Risk Management Skills for the Front Line Supervisor"** Sonoma/Marin ERC | Rohnert Park | Jack Hughes
Feb. 14	**"Introduction to the FLSA" and "A Guide to Implementing Public Employee Discipline"** Central Coast ERC | Paso Robles | Lisa S. Charbonneau
Feb. 15	**"The Future is Now - Embracing Generational Diversity and Succession Planning"** and **"Difficult Conversations"** Napa/Solano/Yolo ERC | Napa | Jack Hughes
Feb. 22	**"Risk Management Skills for the Front Line Supervisor"** and **"A Guide to Implementing Public Employee Discipline"** North State ERC | Red Bluff | Kristin D. Lindgren

Customized Training

Jan. 3	**"Public Service: Understanding Your Roles and Responsibilities"** Three Valleys Municipal Water District | Claremont | Lee T. Patajo
Jan. 9	**"Exercising Your Management Rights"** City of Concord | Heather R. Coffman
Jan. 9,29	**"A Guide to Implementing Public Employee Discipline"** Los Angeles County Department of Public Social Services | Norwalk | T. Oliver Yee
Jan. 9	**"Preventing Workplace Harassment, Discrimination and Retaliation"** San Gabriel Valley Mosquito Vector Control District | West Covina | Lee T. Patajo
Jan. 10,17	**"Issues and Challenges Regarding Drugs and Alcohol in the Workplace"** City of Delano | Che I. Johnson
Jan. 11	**"Ethics in Public Service"** San Diego County Water Authority | San Diego | Judith S. Islas
Jan. 12	**"Train the Trainer: Refresher"** Liebert Cassidy Whitmore | Los Angeles | Christoper S. Frederick

Jan. 18	**"Social Media"** Mariposa County | Mariposa | Kimberly A. Horiuchi
Jan. 24	**"The Disability Interactive Process"** County of Tulare | Visalia | Shelline Bennett
Feb. 8	**"Retaliation in the Workplace"** ERMA | San Ramon | Erin Kunze
Feb. 15	**"The Disability Interactive Process"** County of Tulare | Visalia | Shelline Bennett
Feb. 21	**"Managing the Injured or Disabled Employee and Return to Work Options"** ERMA | Lemoore | Che I. Johnson
Feb. 21	**"Preventing Workplace Harassment, Discrimination and Retaliation"** West Basin Municipal Water District | Carson | T. Oliver Yee

Speaking Engagments

Jan. 9	**"AB 119 Union Attendance at Employee Orientations"** Trindel Insurance Fund | Hollister | Che I. Johnson
Jan. 10	**"Hot Topics at the Table"** California Society of Municipal Finance Officers (CSMFO) | Webinar | Shelline Bennett & Stephanie Dietz
Jan. 10	**"Legal Update"** International Public Management Association (IPMA) Sacramento-Mother Lode Chapter | Roseville | Gage C. Dungy
Jan. 16	**"Keeping up with the Brown Act"** California Special Districts Association (CSDA) Webinar | Webinar | Heather R. Coffman
Jan. 25	**"Legal Update"** Redwood Empire Municipal Insurance Fund (REMIF) Annual Conference | Richard S. Whitmore
Feb. 6	**"Defining Staff Board & Staff Roles and Relationships"** California Special Districts Association (CSDA) Special District Leadership Academy | La Quinta | Frances Rogers
Feb. 8	**"Legal Update and Hot Topics in Labor and Employment Law"** CPS-HR Client Conference 2018 | Napa | Gage C. Dungy
Feb. 15	**"Ethics AB1234 Compliance Training"** California Special Districts Association (CSDA) District Network Meeting | Vista | Frances Rogers
Feb. 15	**"Legislative and Legal Update"** Southern California Public Labor Relations Council (SCPLRC) Annual Conference | Lakewood | J. Scott Tiedemann
Feb. 15	**"Meet and Confer Obligation"** SCPLRC Annual Conference | Lakewood | Peter J. Brown
Feb. 21	**"Annual Employment Law Update: Recent Cases and Trends"** California Special Districts Association (CSDA) Webinar | Webinar | Gage C. Dungy

Seminars/Webinars

Jan. 12 **"Train the Trainer: Refresher"**
Liebert Cassidy Whitmore | Los Angeles | Christoper S. Frederick

Jan. 31 **"Bargaining Over Benefits"**
Liebert Cassidy Whitmore | Fullerton | Kristi Recchia &
Steven M. Berliner

LCW Liebert Cassidy Whitmore
6033 West Century Blvd., 5th Floor | Los Angeles, CA 90045
CalPublicAgencyLaborEmploymentBlog.com | @lcwlegal

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