



CLIENT UPDATE

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

SEPTEMBER 2019

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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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FIRM VICTORY

California Supreme Court Allows Law Enforcement Agency To Disclose “Brady Alerts” To Prosecutors.

LCW Partner [Geoffrey Sheldon](#), Senior Counsel [David Urban](#), and Associate Attorney [Alex Wong](#) led the Los Angeles County’s Sheriff’s Department (“LASD”) to victory in a closely watched case before the California Supreme Court. The State’s Supreme Court overturned a lower appellate court’s decision and held that the LASD could give prosecutors the name(s) of potential deputy witness(es) in a particular case, who are on its “Brady list”, without a *Pitchess* motion and court order.

The case arose from a conflict in the law between criminal defense rights and California peace officers’ privacy rights. In *Brady v. Maryland*, 373 U.S. 83 (1963), the U.S. Supreme Court (“USSC”) concluded that under the due process clause of U.S. Constitution’s 14th Amendment, the prosecution in a criminal case must disclose to the defense all evidence the prosecutor has that would tend to show the criminal defendant was not guilty, including evidence that that would impeach prosecution witnesses such as peace officers.

Sometimes, this “exculpatory” evidence is found in the personnel file of a peace officer witness. For example, if the personnel file shows that the officer had been dishonest or committed other significant misconduct (e.g., racial profiling), the defense could use that information to impeach the officer’s credibility or motivations at the criminal trial. Conversely, California Penal Code sections 832.7 and 832.8 and Evidence Code section 1043, et seq., sometimes called “the *Pitchess* statutes, generally make peace officer personnel records confidential. The *Pitchess* statutes say that in order to access peace officer personnel information, the party seeking the information must first file a motion with the court. If the motion is granted, which can only occur if the moving party establishes “good cause,” the court privately reviews the officer’s personnel records and provides the asking party any information the court deems relevant. This is commonly known as the “*Pitchess*” procedure, and the motion the party files is commonly called a “*Pitchess* motion.”

To address this conflict between a criminal defendant’s constitutional rights and a peace officer’s privacy rights, the LASD compiled a so-called “Brady list,” consisting of names and employee identification numbers of deputies whose personnel files contained sustained allegations of misconduct that could be used to impeach the deputies at trial. This *Brady* list typically includes officers who had been found to be dishonest or guilty of other acts of moral turpitude.

The LASD planned to disclose its *Brady* list to the district attorney's office and other prosecutorial agencies. The prosecution would then know to file a *Pitchess* motion to obtain the relevant information from the deputy's personnel file, or to alert the defense so it could file its own *Pitchess* motion. Under the proposed policy, no information from the deputies' personnel files would be disclosed without a formal *Pitchess* motion and accompanying court order.

The LASD notified the deputies of the proposed policy. The Association for Los Angeles County Deputy Sheriffs ("ALADS"), a union representing non-supervisory deputies, opposed the policy. ALADS filed a lawsuit seeking an injunction to, among other things, prohibit the LASD from creating its *Brady* list or disclosing it (or individual names off of it) to anyone outside of the LASD, absent full compliance with the *Pitchess* procedure. The case made its way up to the California Supreme Court.

In a unanimous decision in favor of the LASD, the Court first evaluated the extent to which California's SB 1421, effective January 1, 2019, affected its analysis. That new law, which went into effect while this case was pending, opened for public inspection many types of peace officers personnel records that could cause an officer to be on a *Brady* list, such as: particular categories of sustained findings of officer dishonesty, perjury, false statements, filing false reports, or evidence destruction, falsification, or concealment. The Court found that although some of this SB 1421 information could place an officer on a *Brady* list, other types of misconduct and information that might also do so.

To resolve the case, the Court held that the "confidentiality" requirement of the *Pitchess* statutes should be interpreted to allow law enforcement agencies to comply with their constitutional obligations under *Brady* by providing limited *Brady* alerts to prosecutors. A *Brady* alert is limited to informing prosecutors that a potential peace officer witness in a particular case is on the *Brady* list. The Court reasoned:

In common usage, confidentiality is not limited to complete anonymity or secrecy. . . . [D]eeming information "confidential" creates insiders (with whom information may be shared) and outsiders (with whom sharing information might be an impermissible disclosure). The text of the *Pitchess* statutes does not clearly indicate that prosecutors are outsiders, forbidden from receiving confidential *Brady* alerts.

The Court concluded that "the Department may provide prosecutors with the *Brady* alerts at issue here without violating confidentiality."

It is important to note that the Court did not hold that LASD could forward an entire *Brady* list to prosecutors. Rather, the Court held that *Brady* alerts were permissible on a case-by-case basis, that is only when there was a pending criminal case.

Association for Los Angeles Deputy Sheriffs v. Superior Court (Los Angeles County Sheriff's Department), No. S243855 (August 26, 2019)

NOTE:

This decision will allow law enforcement and criminal prosecutorial agencies to more efficiently work together without compromising an officer's privacy rights. LCW celebrates its attorneys and staff for serving the Sheriff's Department so well throughout this case.

LABOR RELATIONS

County Violated MMBA By Unilaterally Amending Rules Regarding Promotional Opportunities.

The County of Orange revised its Merit Selection Rules ("MSR") for employee promotions and renamed them its Recruitment Rules and Policies ("RRP"). The Association of Orange County Deputy Sheriffs ("Association") later learned of the revisions. The Association sent the County a letter identifying several changes it considered to be subject to bargaining, and requested the County to return to the status quo by reinstating the former MSR. The County declined, and replied that none of the changes concerned mandatory subjects of

bargaining. The Association then filed an Unfair Practice Charge (“UPC”) with PERB based on the following changes.

First, the RRP amended the MSR’s “Qualification of Applicants” section to state that applicants must not only meet “minimum qualifications” to be considered for a position, but depending on the needs of the County, applicants must also have “desirable qualifications.” Second, the RRP amended the MSR’s “Assessment Requirements” section to require “desirable or ideal qualifications” in some circumstances addition to minimum qualifications. Third, the RRP included new language limiting applicants for inter-jurisdictional transfers from other counties. Fourth, the RRP employed a new “absent rater formula” to recuse a panel member in case of a “close personal relationship” with a candidate.

The ALJ ruled that the County’s actions did not violate the Meyers-Milias-Brown Act (“MMBA”) because these changes fell outside the scope of representation, and thus did not require advance notice to the Association or an opportunity to meet and confer. Applying the three-part test regarding the scope of representation, the ALJ referenced *City of Alhambra* (2010) PERB Decision No. 2139-M (*Alhambra*), which held that some changes to procedures for promotional opportunities are outside the scope of representation. The ALJ then concluded that based on *Alhambra*, the changes to threshold qualification levels in the RRP were outside the scope of representation.

As for the “absent rater formula” and inter-jurisdictional transfers, the ALJ found that these changes both had an effect on public services and were a fundamental managerial or policy decision, and therefore fell outside the scope of representation. The Association excepted to the ALJ’s ruling, and the matter was heard before the PERB Board.

PERB reversed the ALJ’s decision. PERB found that the County violated the MMBA by implementing changes to the MSR/RRP without affording the Association advance notice and an opportunity to bargain. PERB held that because the revisions at issue were substantive changes to the County’s

promotional procedures, they fell within the scope of representation.

PERB examined 35 years of precedent predating the *Alhambra* decision which supported that promotional opportunities usually fall within the scope of representation. PERB stated that promotional opportunities fall outside the scope of representation only under unusual circumstances, such as when an employer makes no substantive changes to a procedure, or revises a procedure to comply with changes in the law.

PERB found that no such unusual circumstances in this case. PERB found that the County’s implementation of “desired” qualifications excluded candidates who met the minimum qualifications, and therefore implicated the promotional opportunities of those who did not. The County’s new rating formula also altered promotional opportunities. PERB decided that the County’s desire for a uniform recruitment policy covering all departments did not create an unusual circumstance that released the County from its duty to bargain. PERB found that promotional criteria were within the scope of representation and disavowed *Alhambra* on this issue.

PERB also found that the County violated the MMBA with regard to effects bargaining. PERB disagreed with the ALJ’s conclusion that the Association failed to state a claim for effects bargaining because it did not demand effects bargaining after it learned of the unilateral implementation. PERB ruled that if a union learns of an agency’s decision after its unilateral implementation, there can be no waiver its right to bargain effects for failure to make a demand because a union’s obligation to demand effects bargaining never even arises in the face of an employer’s unilateral implementation. PERB also found the effects identified by the Association, including job security and promotional opportunities were not speculative given the substance of the unilaterally imposed changes.

County of Orange, PERB Decision No. 2663-M (2019).

NOTE:

This PERB decision disparages a nine-year old PERB precedent and overturns the ALJ's decision that was in the employer's favor. LCW will continue to monitor PERB decisions and report on whether this decision is part of any trend.

DISCRIMINATION

Employee Must Show An Adverse Employment Action Would Not Have Occurred But For A Disability.

Dr. Michael Murray sued the Mayo Clinic ("Clinic") and various individuals alleging disability discrimination in violation of the federal Americans With Disabilities Act ("ADA") after the Clinic terminated his employment. During trial, Dr. Murray requested that the district court instruct the jury that he would prevail if he established that his disability "was a *motivating factor*" in the Clinic's decision to terminate his employment. The district court denied Dr. Murray's request and instead instructed the jury that Dr. Murray needed to establish that he "was discharged *because of* his disability." This is known as the "but for" causation standard. The jury returned a verdict in favor of the defendants. Dr. Murray appealed.

On appeal, Dr. Murray argued that the district court was required to instruct the jury on the "motivating factor" standard rather than the "but for" standard based on the Ninth Circuit precedent stated in the case *Head v. Glacier Northwest, Inc.*, 413 F.3d 1053 (9th Cir. 2005.) However, a three-judge panel of Ninth Circuit disagreed.

The court noted that while the Ninth Circuit's decision in *Head* had been consistent with the plain meaning of the ADA and the interpretation of other courts, the U.S. Supreme Court ("USSC") had subsequently issued decisions to change the applicable causation standard. For example, the USSC held that an employee must "prove that age was the 'but-for' cause of the employer's adverse action" in order to prevail on a claim under the federal Age Discrimination in Employment Act

in *Gross v. FBL Financial Services Inc.*, 557 U.S. 167 (2009). The USSC declined to extend the "motivating factor" causation standard to Title VII retaliation claims in *University of Texas Southwestern Medical Center v. Nassar*, 570 U.S. 338 (2013). Accordingly, the court noted that the USSC has retreated from the "motivating factor" causation standard.

The court noted that while a three-judge panel generally cannot overrule a prior Ninth Circuit decision, it may overrule prior authority when an intervening USSC case undermines the existing precedent. The court concluded that because the USSC's decisions in *Gross* and *Nassar* were clearly irreconcilable with the Ninth Circuit's decision in *Head*, *Head* was overruled. Thus, the court found that an employee bringing a discrimination claim under the ADA must show that the adverse employment action would not have occurred but for the disability.

Murray v. Mayo Clinic (2019) 2019 WL 3939627.

NOTE:

This case confirms that California courts should apply the "but for" causation standard when considering ADA discrimination cases. This standard is more generous towards employers than the "motivating factor" causation standard.

Employee Could Not Establish Disability Discrimination Without A Causal Relationship Between His Impairment And Termination.

Jose Valtierra began working for Medtronic, Inc. in 2004 as a facility maintenance technician. Between his hiring until his termination in 2014, Valtierra was severely overweight. In late 2013, Valtierra received time off for joint pain associated with his weight. Valtierra returned to work in December 2013 without medical restrictions; however, he was still morbidly obese.

In May 2014, Valtierra's supervisor noticed Valtierra seemed to be having difficulty walking. Concerned about Valtierra's ability to perform his job, the supervisor checked the computer system the company used to track assignments. Although Valtierra had left for vacation a day prior, the

computer system indicated that he had completed numerous assignments that should have taken a more significant amount of time to complete. When Valtierra's supervisor confronted him about these discrepancies, Valtierra admitted he had not performed all of the work, but intended to complete the assignments when he returned from vacation. Medtronic then terminated Valtierra for falsifying records.

Subsequently, Valtierra sued Medtronic alleging that he had a disability within the meaning of the Americans with Disabilities Act ("ADA") and that his termination was unlawful discrimination. The trial court dismissed Valtierra's case, finding that obesity, no matter how great, could not constitute a disability under ADA regulations unless the obesity is caused by an underlying condition. The trial court concluded that Valtierra was not able to demonstrate that his obesity was caused by such a condition.

On appeal, the Ninth Circuit affirmed the trial court's decision to dismiss the case. However, the Ninth Circuit did not decide whether Valtierra's obesity was a disability under the ADA. Instead, the court found that even assuming that Valtierra was disabled, he could not establish ADA disability discrimination because he could not prove a causal relationship between his obesity and his termination. The court reasoned that because Valtierra admitted he marked assignments as completed when he had not done the work, and because he had been severely overweight throughout his employment, there was no basis to conclude that the company terminated him for any reason other than falsifying records.

Valtierra v. Medtronic Inc. (2019) 2019 WL 3917531.

NOTE:

Agencies should also be aware that obesity may be a disability within the meaning of the California Fair Employment and Housing Act ("FEHA") if there is a physiological cause or if the employer perceives of or regards the condition as a disability. Accordingly, public agencies should be sure to carefully evaluate all disability discrimination complaints and requests for accommodation involving obesity.

PUBLIC RECORDS

County Lawfully Increased Its Fee For Copies Of Records.

In 2010, Alameda County adopted an ordinance increasing the fee for copies of records from \$1.50 per page to \$3.50 per page. The County adopted this ordinance in response to studies it conducted in 2009 and 2010. The 2009 fee study revealed it cost the County \$3.60 in direct and indirect costs to copy one page of a County record. The second fee study in 2010 revealed it cost \$4.08 to copy one page of a record. That study attributed the increased cost to an increase in salary and benefits in the intervening year. The County also evaluated the fees of neighboring counties and found their fees ranged from \$1.00 per page to \$7.00 per page.

In 2014, California Public Records Research, Inc. ("CPRR") challenged the County's ordinance increasing the fee to \$3.50 per page based on Government Code section 27366. Government Code section 27366 provides that the fee "shall be set . . . in an amount necessary to recover the direct and indirect costs of providing the product or service." CPRR argued that the County violated section 27366. After the trial court found that the County's fee of \$3.50 per page was "unlawful under [section] 27366 as arbitrary, capricious, or entirely lacking evidentiary support," the County appealed.

On appeal, the County contended that it "did not abuse its discretion by enacting a fee schedule encompassing indirect costs authorized by Government Code section 27366." The California Court of Appeal agreed. The court noted that the case hinged on what the Legislature meant by "indirect costs" in section 27366. The court relied on the statute's legislative history and determined that the Legislature intended to give county boards of supervisors the flexibility and discretion to consider a wide range of indirect costs. Therefore, the court concluded that CPRR could not establish that the County had violated section 27366.

Further, the Court of Appeal determined that the County's fee schedule was not "arbitrary, capricious, or entirely lacking evidentiary support" as the trial court had found. CPRR alleged that

the \$52.50 cost for a typical 15-page deed of trust demonstrated the “excessiveness” of the County’s \$3.50 per page fee. However, the court reasoned that CPRR provided no evidence about the average length of copy requests, or the reasonableness of charging fees based on a flat rate per page. The court also noted that even though the County’s 2010 fee study found it cost \$4.08 per page to make copies of official records, it still adopted a fee of \$3.50 per page. Therefore, the court concluded that it must defer to the County’s decision to charge \$3.50 per page for copies of official records.

California Public Records Research, Inc. v. County of Alameda, 27 Cal.App.5th 800 (2019).

NOTE:

This case demonstrates that California counties have broad discretion to set fees for copying records. LCW attorneys can help public agencies ensure that any proposed fee increases are appropriate.

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.

- An employer of five or more employees cannot ask an applicant for the applicant’s conviction history until after the employer has given the applicant a conditional job offer. (Cal. Government Code § 12952(a)(2).)
- An agency can extend workers’ compensation coverage for peace officers injured out-of-state. (Cal. Labor Code, § 3600.2.)
- A single incident of harassing conduct may be sufficient to create a hostile work environment. (Senate Bill No. 1300.)

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 agency, 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 director wanted to know if the agency was required to pay non-exempt employees holiday pay for working on Labor Day. The agency did not have a holiday pay policy or address holiday pay for non-exempt workers in the applicable MOU.

Answer: The attorney explained that the Fair Labor Standards Act has no requirement that employers pay employees a premium rate for working on a holiday. Because the agency did not have a holiday pay policy, nor address holiday pay in the applicable MOU, there was no obligation to pay non-exempt employees holiday pay for working on Labor Day.

BENEFITS CORNER

Considerations In Structuring And Managing Eligible Opt-Out Arrangements.

It is September, and for many employers the open enrollment period for group health insurance is just around the corner. Employees may face various decisions relating to health benefit elections. Employers that offer opt out arrangements or cash-in-lieu of health benefits to employees must consider various issues. The issues discussed in this article apply to applicable large employers (i.e. those with

an average of at least 50 full-time employees or “full-time equivalents”) (“ALE”) pursuant to the Affordable Care Act’s (“ACA”) Employer Shared Responsibility requirements.

Cash-in-lieu of health benefits can make it more difficult for an ALE to meet the “affordability” test under the ACA. Opt-out arrangement payments count as employee contributions in the ACA’s “affordability” calculation, essentially making the plans more expensive. The main way to avoid this issue is for the employer to maintain an “eligible opt-out arrangement” when an employee declines employer offered coverage and takes cash. This requires documentation of the following:

- Proof that the employee and all members of the employee’s tax family have or are expected to have minimum essential coverage (“MEC”) (other than coverage in the individual market, whether or not obtained through Covered California) for the relevant period (i.e., the plan year for which the opt-out payment is offered);
- That the employer cannot make opt-out payments (and the employer in fact must not) if the employer knows or has reason to know that the employee or a member of the employee’s tax family does not or will not have MEC.

What is sufficient “proof” of alternative coverage?

Does the opting-out employee need to provide a copy of his/her benefits card for the alternative coverage? The IRS has provided guidance in this area. Employers only need to receive “reasonable evidence” of alternative coverage, which may consist of an employee attestation that complies with the following:

- Signed acknowledgment that the employee and all other members of the employee’s tax family, if any, have or will have MEC (other than coverage in the individual market);
- The employee must provide the attestation annually (i.e., every plan year);
- The employee must provide the attestation no earlier than a reasonable time period before coverage starts (i.e., open enrollment). The

arrangement can also require the evidence/attestation to be provided after the plan year starts.

If the foregoing conditions are met, the opt-out arrangement is an “eligible opt-out arrangement,” meaning that the amount of the opt-out payment is excluded from the employee’s required premium contribution for the affordability calculation.

What is MEC? Is it the same thing as group health coverage?

Under an eligible opt out arrangement an employee must provide proof that they have MEC, other than individual coverage and other than individual coverage through Covered California. Minimum essential coverage is NOT the same thing as group health coverage. It is broader. Many plans that do not qualify as group health coverage provide MEC, such as government-sponsored plans, including Medicare part A, most Medicaid, CHIP, most TRICARE, veterans’ health care benefits, and others.

An opt out arrangement that requires the employee to provide proof of “group” health coverage only, will not qualify as an eligible opt out arrangement.

Can an Employer just modify its Opt Out Form to create an Eligible Opt Out Arrangement?

It depends. Employers must ensure they analyze currently applicable policies and procedures, Memoranda of Understanding (“MOU”) or other collective bargaining agreements. Implementing an eligible opt out arrangement might require negotiation with union groups or revision to underlying policies and procedures.

Will having an Eligible Opt Out Arrangement make coverage affordable?

Not necessarily. Employers should make sure that their benefit arrangements are affordable under one of the affordability safe harbors by running the calculations. In addition to eligible opt out arrangements, a separate rule relating to the affordability calculation requires an employer

to ignore any employer contribution toward health benefits that can be directed toward non-health benefits or cashed out. If the entire employer contribution may be cashed out, this should be a red flag warning that your offered coverage may not be affordable.

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FIRM PUBLICATIONS

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

Managing **Partner J. Scott Tiedemann** authored California Public Employee Relations (CPER)'s "Pocket Guide to the Firefighters Procedural Bill of Rights Act – 5th Edition" and provided updates for the "Pocket Guide to the Public Safety Officers Procedural Bill of Rights Act."



Congratulations to Geoffrey Sheldon, Alex Wong and David Urban on their victory in a California Supreme Court case!



“The importance of a fair trial to a criminal defendant is paramount to our justice system, and this reinforces that.”

- Geoffrey Sheldon



California Supreme Court decided unanimously that the Los Angeles County Sheriff’s Department and other law enforcement agencies may alert prosecutors that a deputy who is slated to testify in a criminal case has a history of misconduct. News of this decision made numerous publications in California and around the country – and Geoffrey Sheldon was interviewed to provide his input!

Quoted in the following publications:

- Fresno Bee
- Associated Press
- The Sacramento Bee
- Los Angeles Times
- Miami Herald
- Merced Sun Star
- Santa Maria Times
- KRCA
- Idaho Statesman
- SMDaily Journal
- Washington Times
- The San Francisco Chronicle
- Bakersfield.com
- San Diego Union Tribune
- OC Register
- Daily Journal
- NH Register
- CEB (Continuing Education of the Bar)
- NBC Bay Area
- Houston Chronicle
- Kansas City News
- Napa Valley Register

NEW TO THE FIRM



Amy Brandt is an Associate in our San Francisco office where she works closely with school district management and leaders on various issues such as employee investigations, employee discipline, civil rights issues, student discipline, contract interpretation, contract drafting, and community partnerships.

She can be reached at 415.512.3045 or abrandt@lcwlegal.com.



Monica Espejo joins our Sacramento office where she provides representation and counsel to clients in matters pertaining to labor & employment law as well as business, construction, and facilities. She represents both public and private sector clients.

She can be reached at 916.584.7083 or mespejo@lcwlegal.com.

MANAGEMENT TRAINING WORKSHOPS

Firm Activities

Consortium Training

- Sept. 11** **“Nuts & Bolts: Navigating Common Legal Risks for the Front Line Supervisor”**
Humboldt County ERC | Fortuna | Jack Hughes
- Sept. 11** **“Difficult Conversations” & “The Future is Now - Embracing Generational Diversity and Succession Planning”**
San Gabriel Valley ERC | Alhambra | Christopher S. Frederick
- Sept. 11** **“The Meaning of At-Will, Probationary, Seasonal, Part-time and Contract Employment”**
Ventura/Santa Barbara ERC | Webinar | Ronnie Arenas
- Sept. 12** **“Managing the Marginal Employee” & “Finding the Facts: Employee Misconduct & Disciplinary Investigations (formerly Conducting Disciplinary Investigations: Who, What, When and How)”**
Central Valley ERC | Fresno | Shelline Bennett
- Sept. 12** **“Maximizing Supervisory Skills for the First Line Supervisor”**
Gold Country ERC | Citrus Heights | Kristin D. Lindgren
- Sept. 12** **“Exercising Your Management Rights”**
Humboldt County ERC | Fortuna | Jack Hughes
- Sept. 12** **“Labor Code 101 for Public Agencies”**
Monterey Bay ERC | Webinar | Michael Youril
- Sept. 12** **“Public Service: Understanding the Roles and Responsibilities of Public Employees” & “Workplace Bullying: A Growing Concern”**
San Diego ERC | La Mesa | Stephanie J. Lowe
- Sept. 17** **“Privacy Issues in the Workplace” & “Labor Code 101 for Public Agencies”**
North San Diego County ERC | Vista | Kevin J. Chicas
- Sept. 18** **“Preventing Workplace Harassment, Discrimination and Retaliation”**
NorCal ERC | San Ramon | Morin I. Jacob
- Sept. 19** **“MOU Auditing and The Book of Long Term Debt” & “Labor Code 101 for Public Agencies”**
Coachella Valley ERC | La Quinta | Melanie L. Chaney
- Sept. 19** **“Privacy Issues in the Workplace” & “Navigating the Crossroads of Discipline and Disability Accommodation”**
Napa/Solano/Yolo ERC | Fairfield | Gage C. Dungy
- Sept. 19** **“Difficult Conversations” & “The Art of Writing the Performance Evaluation”**
Orange County Consortium | Tustin | Kristi Recchia
- Sept. 19** **“Legal Issues Regarding Hiring” & “Workplace Bullying: A Growing Concern”**
West Inland Empire ERC | Chino Hills | Danny Y. Yoo
- Sept. 25** **“Nuts & Bolts: Navigating Common Legal Risks for the Front Line Supervisor” & “Managing the Marginal Employee”**
Central Coast ERC | Paso Robles | Che I. Johnson
- Sept. 26** **“Maximizing Supervisory Skills for the First Line Supervisor Part 1”**
LA County Human Resources Consortium | Los Angeles | Elizabeth T. Arce

- Oct. 2** **“Leaves, Leaves and More Leaves”**
 North State ERC | Webinar | Lisa S. Charbonneau
- Oct. 3** **“Maximizing Supervisory Skills for the First Line Supervisor”**
 Central Valley ERC | Lindsay | Tony G. Carvalho & Che I. Johnson
- Oct. 3** **“The Future is Now - Embracing Generational Diversity and Succession Planning”**
 Gateway Public ERC | South Gate | Kristi Recchia
- Oct. 3** **“Prevention and Control of Absenteeism and Abuse of Leave” & “Managing the Marginal Employee”**
 Imperial Valley ERC | El Centro | Frances Rogers
- Oct. 3** **“The Future is Now - Embracing Generational Diversity and Succession Planning” & “Managing the Marginal Employee”**
 San Joaquin Valley ERC | Ripon | Michael Youril
- Oct. 3** **“Preventing Workplace Harassment, Discrimination and Retaliation”**
 South Bay ERC | Redondo Beach | Ronnie Arenas
- Oct. 10** **“Technology & Employee Privacy”**
 Bay Area ERC | Webinar | Che I. Johnson
- Oct. 10** **“Maximizing Supervisory Skills for the First Line Supervisor”**
 East Inland Empire ERC | Fontana | Kristi Recchia
- Oct. 10** **“Technology & Employee Privacy”**
 San Mateo County ERC | Webinar | Che I. Johnson
- Oct. 10** **“The Future is Now - Embracing Generational Diversity and Succession Planning” & “Iron Fists or Kid Gloves: Retaliation in the Workplace”**
 Ventura/Santa Barbara ERC | Camarillo | Christopher S. Frederick
- Oct. 16** **“Labor Negotiations from Beginning to End” & “Leaves, Leaves and More Leaves”**
 San Gabriel Valley ERC | Alhambra | T. Oliver Yee
- Oct. 17** **“Preventing Workplace Harassment, Discrimination and Retaliation” & “Case Study for Managing Illnesses or Injuries”**
 Coachella Valley ERC | Palm Desert | Ronnie Arenas
- Oct. 17** **“Preventing Workplace Harassment, Discrimination & Retaliation”**
 Orange County Consortium | Buena Park | Laura Drottz Kalty
- Oct. 23** **“Leaves, Leaves and More Leaves” & “Nuts & Bolts: Navigating Common Legal Risks for the Front Line Supervisor”**
 NorCal ERC | Danville | Richard Bolanos
- Oct. 24** **“Maximizing Supervisory Skills for the First Line Supervisor Part 2”**
 LA County Human Resources Consortium | Los Angeles | Elizabeth T. Arce
- Oct. 24** **“Exercising Your Management Rights” & “An Agency’s Guide to Employee Retirement”**
 Mendocino County ERC | Ukiah | Erin Kunze
- Oct. 30** **“Difficult Conversations” & “Maximizing Performance Through Evaluation, Documentation and Corrective Action”**
 Gold Country ERC | Roseville | Gage C. Dungy & Brian J. Hoffman
- Oct. 30** **“A Guide to Implementing Public Employee Discipline” & “Nuts & Bolts: Navigating Common Legal Risks for the Front Line Supervisor”**
 Monterey Bay ERC | Watsonville | Casey Williams

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.

Sept. 10,18,24 “Preventing Workplace Harassment, Discrimination and Retaliation”

City of Sunnyvale | Lisa S. Charbonneau

Sept. 10 “Harassment and Ethics”

City of Long Beach Water Department | Long Beach | Laura Drottz Kalty

Sept. 10 “Preventing Workplace Harassment, Discrimination and Retaliation”

Sanitation Districts of Los Angeles County | Whittier | Joung H. Yim

Sept. 11 “Preventing Workplace Harassment, Discrimination and Retaliation and Mandated Reporting”

East Bay Regional Park District | Castro Valley | Casey Williams

Sept. 11,12 “Preventing Workplace Harassment, Discrimination and Retaliation”

Housing Authority of the County of Santa Clara | San Jose | Kelsey Cropper

Sept. 11 “Preventing Workplace Harassment, Discrimination and Retaliation”

Sanitation Districts of Los Angeles County | Carson | James E. Oldendorph

Sept. 12 “Preventing Workplace Harassment, Discrimination and Retaliation”

City of Brea | Laura Drottz Kalty

Sept. 12 “Preventing Workplace Harassment, Discrimination and Retaliation”

Rancho Simi Recreation and Park District | Simi Valley | Joung H. Yim

Sept. 12 “Preventing Workplace Harassment, Discrimination and Retaliation”

Sanitation Districts of Los Angeles County | Whittier | Christopher S. Frederick

Sept. 13 “Inclusive Leadership”

San Diego County Water Authority | San Diego | Kristi Recchia

Sept. 16 “Supervisor/Management Development Training”

City of Manhattan Beach | Kristi Recchia

Sept. 16,20 “Preventing Workplace Harassment, Discrimination and Retaliation”

City of Sausalito | Lisa S. Charbonneau

Sept. 17,18,19 “Preventing Workplace Harassment, Discrimination and Retaliation”

Irvine Ranch Water District | Irvine | Christopher S. Frederick

Sept. 18 “Preventing Workplace Harassment, Discrimination and Retaliation”

City of San Bruno | Kelsey Cropper

Sept. 18 “Workplace Bullying”

ERMA | Pleasant Hill | Heather R. Coffman

Sept. 19 “MOU’s, Leaves and Accommodations”

City of Santa Monica | Laura Drottz Kalty

Sept. 24 “Preventing Workplace Harassment, Discrimination and Retaliation”

City of Monterey Park | Laura Drottz Kalty

Sept. 24 “Preventing Workplace Harassment, Discrimination and Retaliation”

City of National City | Kevin J. Chicas

Sept. 24	“Maximizing Supervisory Skills for the First Line Supervisor” Mono County Lee Vining Gage C. Dungy
Sept. 25	“Maximizing Supervisory Skills for the First Line Supervisor” City of Glendale Stacey H. Sullivan
Sept. 25	“Preventing Workplace Harassment, Discrimination and Retaliation” City of Pittsburg Kelsey Cropper
Sept. 26	“Preventing Workplace Harassment, Discrimination and Retaliation” City of Glendale Jenny Denny
Sept. 27	“Training Academy for Workplace Investigators: Core Principles, Skills & Practices for Conducting Effective Workplace Investigations” County of Fresno Fresno Shelline Bennett
Sept. 30	“Preventing Workplace Harassment, Discrimination and Retaliation” County of San Luis Obispo San Luis Obispo Laura Drottz Kalty
Sept. 30	“Preventing Workplace Harassment, Discrimination and Retaliation” County of San Luis Obispo San Luis Obispo Alysha Stein-Manes
Oct. 2	“Preventing Workplace Harassment, Discrimination and Retaliation” City of Lynwood Christopher S. Frederick
Oct. 2	“Training Academy for Workplace Investigators: Core Principles, Skills & Practices for Conducting Effective Workplace Investigations” City of San Jose Morin I. Jacob
Oct. 2	“Preventing Workplace Harassment, Discrimination and Retaliation and Mandated Reporting” East Bay Regional Park District Oakland Erin Kunze
Oct. 3	“Preventing Workplace Harassment, Discrimination and Retaliation” City of Monterey Park Laura Drottz Kalty
Oct. 3	“Preventing Workplace Harassment, Discrimination and Retaliation” City of Sunnyvale Lisa S. Charbonneau
Oct. 3	“Preventing Workplace Harassment, Discrimination and Retaliation” County of Siskiyou Yreka Kristin D. Lindgren
Oct. 4	“Preventing Workplace Harassment, Discrimination and Retaliation” ERMA Anselmo Kelsey Cropper
Oct. 7,10,14,17	“Preventing Workplace Harassment, Discrimination and Retaliation” Port of San Diego San Diego Stacey H. Sullivan
Oct. 8	“The Future is Now - Embracing Generational Diversity & Succession Planning” City of Glendale Jennifer Palagi
Oct. 8	“Preventing Workplace Harassment, Discrimination and Retaliation” Mesa Water District Costa Mesa Christopher S. Frederick
Oct. 9,22	“Preventing Workplace Harassment, Discrimination and Retaliation” City of Glendale Laura Drottz Kalty
Oct. 9,10	“Performance Management and Evaluation Process” Mendocino County Ukiah Jack Hughes

- Oct. 9,10** **“Maximizing Performance Through Documentation, Evaluation and Corrective Action and The Art of Writing the Performance Evaluation”**
Mendocino County | Ukiah | Jack Hughes
- Oct. 14** **“ADA and Ethics in Public Service”**
Humboldt County | Eureka | Jack Hughes
- Oct. 22** **“Courageous Authenticity and Conflict Resolution”**
CalOptima | Orange | Kristi Recchia
- Oct. 23** **“Preventing Workplace Harassment, Discrimination and Retaliation”**
City of Rialto | James E. Oldendorph
- Oct. 24** **“Preventing Workplace Harassment, Discrimination and Retaliation”**
City of Los Banos | Che I. Johnson
- Oct. 29** **“Preventing Workplace Harassment, Discrimination and Retaliation and Mandated Reporting”**
East Bay Regional Park District | Oakley | Erin Kunze
- Oct. 30** **“Unconscious Bias”**
County of San Luis Obispo | San Luis Obispo | James E. Oldendorph
- Oct. 30** **“Principles for Public Safety Employment and 12 Steps to Avoiding Liability”**
Los Angeles County | Los Angeles | J. Scott Tiedemann

Speaking Engagements

- Sept. 25** **“Town Hall - Legal Eagles”**
California Special Districts Association (CSDA) Annual Conference | Anaheim | T. Oliver Yee & Christopher Fallon
- Sept. 25** **“Harassment Training”**
Public Employer Labor Relations Association of California (PELRAC) 2019 Annual Conference | Cathedral City | Laura Drottz Kalty
- Sept. 26** **“Things Every Nonprofit Needs to Know About Contracts”**
Arthur J. Gallagher & Co. Risk Avoidance for Nonprofits in 2019 | Petaluma | Casey Williams
- Sept. 27** **“Tactical Considerations When Conducting Internal Affairs Investigations”**
Association of Workplace Investigators (AWI) Annual Conference | Marina del Rey | Laura Drottz Kalty
- Sept. 27** **“A Blunt Reality? Drugs & Alcohol in the Workplace”**
California Special District Association (CSDA) 2019 Annual Conference | Anaheim | Christopher S. Frederick
- Sept. 27** **“Courageous Authenticity”**
California Special Districts Association (CSDA) 2019 Annual Conference | Anaheim | Kristi Recchia
- Sept. 27** **“Tackling Challenges in Accommodating Mental Disabilities in the Workplace”**
Public Agency Risk Managers Association (PARMA) Central Valley Chapter Fall Training | Clovis | Michael Youril
- Sept. 27** **“Legal Update”**
Public Employer Labor Relations Association of California (PELRAC) Annual Conference | Cathedral City | Peter J. Brown
- Sept. 27** **“Advanced Negotiations”**
Public Employer Labor Relations Association of California (PELRAC) Annual Conference | Cathedral City | Peter J. Brown
- Oct. 4** **“Legal Update”**
County Personnel Administrators Association of California (CPAAC) Regional Meeting | Fresno | Shelline Bennett

- Oct. 4** **“Hot Topics in Labor and Employment Law”**
NORCAL-HR Fall Conference | Lodi | Gage C. Dungy
- Oct. 9** **“Public Safety Legal Update”**
San Bernardino & Riverside County Police Chiefs Conference | Indian Wells | Geoffrey S. Sheldon & James E. Oldendorph
- Oct. 11** **“SDLA Board’s Role in Human Resources”**
California Special Districts Association (CSDA) | Ventura | T. Oliver Yee
- Oct. 16** **“Re-Imagining Modern Policing in California”**
League of California Cities 2019 Annual Conference | Long Beach | J. Scott Tiedemann & Neil Okazaki & David E. Mastagni & Jorge Cisneros
- Oct. 17** **“#MeToo2.0: A Guide to Help Navigate New Workplace Harassment Laws”**
League of California Cities | Long Beach | J. Scott Tiedemann
- Oct. 18** **“Walking the Tightrope: Recognizing, Addressing and Accommodating Mental Illnesses & Disabilities”**
League of California Cities 2019 Annual Conference | Long Beach | Jennifer Rosner
- Oct. 18** **“Labor and Employment Litigation Update”**
League of California Cities 2019 Annual Conference City Attorneys’ Track | Long Beach | Suzanne Solomon
- Oct. 18** **“AB 1661 Sexual Harassment Prevention”**
League of California Cities Annual Conference | Long Beach | Christopher S. Frederick
- Oct. 23** **“FLSA - Police & Fire Issues”**
National Public Employer Labor Relations Association (NPELRA) | Webinar | Lisa S. Charbonneau

Seminars/Webinar

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

- Sept. 12** **“Nuts & Bolts of Negotiations”**
Liebert Cassidy Whitmore | Alhambra | Melanie L. Chaney & Kristi Recchia
- Sept. 17** **“Is it Pensionable? Hybrids, Lump Sums, & Other Pensionable Compensation Challenges”**
Liebert Cassidy Whitmore | Webinar | Laura Drottz Kalty
- Oct. 1** **“Last, Best & Final Offers & the Impasse Process”**
Liebert Cassidy Whitmore | Webinar | Jack Hughes
- Oct. 8** **“10 Problems You May Have With CalPERS, and How to Fix Them”**
Liebert Cassidy Whitmore | Webinar | Michael Youril
- Oct. 8** **“2-Day FLSA Academy (Day 1)”**
Liebert Cassidy Whitmore | Citrus Heights | Richard Bolanos & Lisa Charbonneau
- Oct. 9** **“2-Day FLSA Academy (Day 2)”**
Liebert Cassidy Whitmore | Citrus Heights | Richard Bolanos & Lisa Charbonneau
- Oct. 17** **“Bargaining Over Benefits”**
Liebert Cassidy Whitmore | Suisun City | Steven M. Berliner & Kristi Recchia



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If you have any questions, contact **Jaja Hsu** at 310.981.2000 or at info@lcwlegal.com.

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