

Labor and Employment Litigation Update

League of California Cities: City Attorneys Spring
Conference | May 9, 2024

Presented By:

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Agenda

- New Legislation
- Employee Discrimination & Discipline
- Workers Compensation & Retirement
- Labor Law
- First Amendment
- Public Records Act



New Legislation



Public Records Act

- Senate Bill 400 – Law Enforcement Agencies May, but are Not Required to, Release Statements Announcing Terminations of Police and Custody Officers
 - Penal Code Section 832.7(b)(13)

Workplace Violence Prevention

- SB 553 – Employers Must Implement and Train Employees on a Workplace Violence Prevention Plan by July 1, 2024
 - Labor Code Section 6401.7 & 6401.9 (Effective 1/1/24, compliance required 7/1/24)



Employee Discrimination & Discipline



Discrimination – Liability

- The California Supreme Court Significantly Expands the Liability of an Employer's Agents
 - *Raines v. U.S. Healthworks* (8/21/23) 15 Cal.5th 268



Discrimination – Sanctions

- Terminating Sanctions Were Proper in an Employment Discrimination Case Where Ample Circumstantial Evidence Showed That The Plaintiff Deleted and Hid Text Messages With Witnesses, Intentionally Spoliating Electronic Evidence
 - *Jones v. Riot Hospitality Group LLC* (9th Cir. 2024) 95 F.4th 730

Hostile Work Environment

- University Had a Legitimate Reason to Terminate a Department Director When the Director Harassed and Retaliated Against Other Department Employees, Creating a Hostile Work Environment
 - *Martin v. Board of Trustees of California State University* (11/14/2023) 97 Cal.App.5th 149

Discipline

- Detention Officer's Disciplinary Appeal was Premature Because the Trial Court's Order That the Personnel Board Reconsider its Findings was Not a "Final Appealable Judgment"
 - *Jackson v. Board of Civil Service Commissioners of City of Los Angeles* (2/8/2024) 99 Cal.App.5th 648



Workers Compensation & Retirement



Workers Compensation

- City Firefighter Could Not Sue City for Negligence Because Workers Compensation is the Exclusive Remedy for Employees
 - *Vann v. City and County of San Francisco* (12/12/2023)
97 Cal.App.5th 1013



Retirement

- Payroll Employee Forfeited Years Of CalPERS Benefits Upon Her No Contest Plea
 - *Estrada v. Public Employees' Retirement System* (9/21/23) 95 Cal.App.5th 870



Labor Law



Labor Law

- Employee's Service As A Union Officer Was Protected Activity But The District Was Justified In Terminating Her For Numerous Errors
 - *Visalia Unified School Dist. v. Public Employment Relations Bd.* (1/9/2024) 98 Cal.App.5th 844



Labor Law

- Emergency Did Not Relieve County of Duty To Give Notice And An Opportunity To Bargain
 - *Registered Nurses Professional Association and S.E.I.U. Local 521 v. County of Santa Clara (10/17/23) PERB No. 2876-M – JUDICIAL APPEAL PENDING*



Labor Law

- Prohibiting Union-Related Insignia On University Vehicles Was Unlawful
 - *Teamsters Local 2010 v. Regents of the University of California* (10/24/23) PERB No 2880-H



Labor Law

- PERB Finds Retaliation but no Denial of Right to Union Representation
 - *State of California (California Correctional Health Care Services)* (2/8/24) PERB Dec. No. 2888-S – JUDICIAL APPEAL PENDING



First Amendment



First Amendment

- A City Mayor and Chief of Police Were Not Entitled to Qualified Immunity for Firing Two Officers who Raised Concerns Over the Chief's Job Performance and Alleged Misconduct
 - *Noon v. City of Platte Woods* (8th Cir. 3/4/24) 94 F.4th 759

First Amendment

- A Police Officer's First Amendment Retaliation Claim Failed When the Alleged Protected Speech was Made in the Context of a Police Department's Internal Grievance Procedures
 - *Massaro v. Fairfax Cnty.* (4th Cir. 3/19/24) 95 F.4th 895

Public Records Act



Public Records Act

- Drone Footage is Not Categorically Exempt From Disclosure as “Investigation Records”
- Estimated 1833 Hours (229 Workdays) to Review and Redact the Footage is Insufficient by Itself for Catchall Exemption
 - *Castañares v. Superior Court* (12/27/2023) 98 Cal.App.5th 295

Thank You!

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