Client Update

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

March 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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LABOR RELATIONS

County's Standard Administrative Leave Gag Order Interfered with Peace Officer's and Union's Rights.

The County of Santa Clara initiated an investigation against Lance Scimeca, a peace officer and the president of the Santa Clara County Correctional Peace Officers' Association ("CPOA"), for alleged violations of the County's workplace communications policies. The County placed Scimeca on paid administrative leave and directed him to stay off of Sheriff's Office property. The County also ordered him not to discuss the matter "with any witnesses, potential witnesses, the complainant, or any other employee of the Sheriff's Office other than [his] official representative."

CPOA objected that the County's gag order prevented Scimeca from meeting with union members in the workplace and from attending meet and confer sessions. The County responded by informing Scimeca that he could continue his union activities, such as: discussing union matters with CPOA members; representing CPOA members in disciplinary proceedings; and participating in negotiations with the County. But, the County did not change its directive that Scimeca not discuss the allegations under investigation with any witnesses, potential witnesses, the complainant, or other employees.

The Public Employment Relations Board (PERB) concluded that prohibiting Scimeca from communicating with his coworkers about the allegations against him violated both: his MMBA right to communicate with others about working conditions; and the CPOA's MMBA right to represent the officer. PERB noted that the right to communicate with others about working conditions is one of the fundamental MMBA rights, and that "working conditions" include the circumstances underlying alleged employee misconduct.

Specifically, PERB noted that by preventing Scimeca from communicating with witnesses or potential witnesses, Scimeca was not able to make inquiries that could have helped him prepare for his investigatory interview. This in turn prevented Scimeca from giving effective assistance to his CPOA representative during the investigation. Additionally, by prohibiting Scimeca from communicating with his coworkers, the County denied him the opportunity to assert his innocence to other union members, which could have eroded members' confidence in union leadership and compromised the effectiveness of CPOA. This interfered with the union and Scimeca's protected rights.

Once the employer is shown to have interfered with its employees' MMBA rights, the burden shifts to the employer to provide a legitimate justification for its conduct. The County argued that it had a legitimate business necessity for the gag order so as to: (1) ensure the investigation was free from improper collusion or coercion by the subject employee; and (2) treat all employees under investigation the same. The County also said that the gag order was justified because correctional deputies work in dangerous conditions with real threats of violence.

PERB found that the County did not meet its burden of explaining why confidentiality was necessary in this case. First, PERB found that the County's stated concerns were only general and did not specifically apply to Scimeca's case. Second, PERB said the County did not offer any facts to explain why safety would have been compromised if Scimeca had been able to communicate during the investigation, or whether Scimeca's alleged misconduct related to abuse of his authority or to intimidation of employees or inmates. PERB concluded that the County had no particular reason for directing Scimeca not to communicate with his coworkers regarding the investigation. Both PERB and the NLRB have held that generalized or blanket gag orders during investigations are not sufficient to outweigh employee representational rights.

In addition, PERB was not persuaded by the County's argument that it could not provide the basis for its directive to Scimeca because Scimeca refused to waive his privacy rights in his peace officer personnel records. PERB noted that the County could have filed the necessary "Pitchess" motion to attempt to reveal Scimeca's records, but it did not do so.

PERB concluded that the County's gag order interfered with not only Scimeca's rights to discuss the terms and conditions of his employment with co-workers, but also with the right of the CPOA to represent its members in their employment relations with the County.

County of Santa Clara, PERB Decision No. 2613-M (2018).

Note:

NLRB and PERB precedents do not allow blanket gag orders. Instead, the employer must first analyze whether in any given investigation: witnesses need protection; evidence is in danger of being destroyed; testimony is in danger of being fabricated; or there is a need to prevent a cover up. Agencies are encouraged to review and update their notices of investigation and administrative leave. LCW's Workbooks, which are available through subscription to the Liebert Library, provide updated notices to help ensure that public agencies are complying with the requirements of this frequently changing area of law. Go to https://liebertlibrary.com/ for more information.

County Violated MMBA by Refusing Employee's Request for Representation and Disciplining Him for Making the Request.

Joel Madarang was a Custody Recreation Supervisor at the County of San Joaquin's jail. As a Custody Recreation Supervisor, Madarang supervised inmate recreation programs. In 2014, Madarang began conducting bingo games for the female general population inmates on Thursday afternoons. Later, Madarang's supervisor, Kristen Hamilton, emailed him directing him to change the start time of the bingo games from 1:00 p.m. to 10:30 a.m. in order to make room for a new mental health program designed to decrease the recidivism rate.

In the following months, Madarang held numerous bingo games in the morning. However, on three occasions, he held bingo games in the afternoon. Madarang understood that Hamilton had directed him to move the time of the bingo game so as not to interfere with the new mental health program, but he also believed he had discretion to make changes to the recreation schedule. As a result, Madarang did not seek Hamilton's authorization before holding the bingo games in the afternoon.

Hamilton learned that the bingo games Madarang held in the afternoon were affecting the attendance of the mental health program. Hamilton sent Madarang an email asking why he was holding

bingo games in the afternoon when she had directed him to hold them in the morning. After Madarang explained verbally, Hamilton sent a follow-up email expressing her frustrations and directing Madarang to write a memo explaining why he failed to follow her directions and to bring it to her office.

Madarang told Hamilton that he wanted to speak to a union representative first. Hamilton responded that Madarang did not need a union representative for this and that he should just write the memo so she could get his side of the story and correct his behavior. Madarang continued to request a union representative prior to writing the memo.

Hamilton consulted with the jail's custodial captain, who told her that if Madarang wanted to speak with a representative, he should be allowed to bring one when he delivered Hamilton the requested memo. Instead of relaying that information to Madarang, however, Hamilton requested an internal affairs investigation regarding Madarang's refusal. The County placed Madarang on paid administrative leave and investigated the allegations against him. Madarang received a 10-day suspension for insubordination.

PERB found that the County violated the MMBA by refusing to grant Madarang's request for a union representative, and then by disciplining him because of his request. PERB noted that "[a]n employer faced with a valid request for representation has three options. It may: (1) grant the request; (2) discontinue the interview/request for information and investigate through other means; or (3) offer the employee the option of continuing the interview without representation or having no interview at all." PERB noted that Hamilton's order that Madarang draft the memo and bring it to her was well outside an employer's permissible responses to an employee's request for a representative.

PERB also found that by initiating an investigation into Madarang's alleged insubordination after he repeatedly requested representation, the County punished him for making such requests. There was no evidence that Hamilton had considered discipline or sought to involve internal affairs before Madarang requested a representative. PERB noted that there would not have been an internal affairs investigation or discipline absent Madarang's request for representation. Thus, PERB concluded that the County violated both Madarang and the union's rights under the MMBA.

County of San Joaquin (Sheriff's Dep't), PERB Decision No. 2619-M (2018).

Note:

> *Agencies must allow an employee the right to representation if: the employer seeks to elicit information that the employee reasonably believes could potentially affect the employment relationship; and the employee asks for a representative. LCW attorneys can help agencies to through the intricacies of disciplinary investigations and the disciplinary process.*

County Violated MMBA by Changing Performance Targets without Consulting the Union.

The County of Kern's Department of Mental Health ("Department") operates as a mental health clinic. Medi-Cal reimburses the Department for some of the services it provides. These reimbursable services are known as "direct services."

Within the Department, six divisions provide direct services to clients. The Adult Care Division generally expected employees to spend 50% of their available time performing direct services, while other divisions generally expected employees to spend 75% of their available time doing so. Division supervisors had discretion to implement a formula for calculating whether employees met these targets. These formulas varied among divisions and supervisors.

In September 2014, the County created a new, Department-wide 75% direct services target and a corresponding Department-wide formula. These policies increased the direct services target from 50% to 75% for the Adult Care Division employees, and standardized the method for evaluating whether employees met their targets.

The County did not provide advance notice of the changes to the union representing Department employees. At a labor-management meeting, the union asked to meet and confer with the County over the new policies. The union also asked for a copy of the formula the Department was using. A County representative emailed the union a copy of formula previously used by one of the Department's divisions, but not the new, Department-wide formula.

After the union learned the County had implemented the 75% direct services target and the associated Department-wide formula, it demanded that the County stop imposing these changes and that it meet and confer. The County Director of Mental Health advised the union that the County would continue to use the new policies. At no point did the County and the union meet and confer over the changes.

The Public Employment Relations Board (PERB) adopted the decision of the Administrative Law Judge ("ALJ") and found that the County violated the MMBA by unilaterally implementing the 75% direct service target and Department-wide formula, without giving the union the opportunity to bargain. PERB rejected the County's argument that the Department-wide formula was sufficiently similar to its prior practices that the County had no duty to bargain. PERB reasoned that the new formula represented a significant departure for employees working in the Adult Care division who were previously only expected to meet a 50% direct services target. The County also standardized the formula for evaluating whether employees were meeting their targets, which transferred the exercise of discretion from the divisional level to the Department level. Because these changes were not consistent with the County's past practices, the County was required to bargain with the union.

PERB also found that the County did not bargain with the union over the change of policy. The County did not respond to the union's repeated requests to meet and confer over the changes. Further, the County did not provide the union with a copy of the Department-wide formula prior to its implementation. Thus, the County denied the union notice and an opportunity to bargain in violation of the MMBA.

County of Kern, PERB Decision No. 2615-M (2018).

Note:

Agencies must ensure that they are not changing policies unilaterally. LCW attorneys can advise public agencies as to the extent of their management rights and their duty to bargain the terms and conditions of employment.

County Violated MMBA By Stopping Union from Distributing Surveys and Removing Grievances from Union's Bulletin Board

The Public Employment Relations Board ("PERB") determined that a county violated numerous provisions of the Meyer-Milias Brown Act ("MMBA") when it: directed a union representing its employees to stop distributing surveys; removed grievances from the union's designated bulletin boards; made unilateral changes to its release policies; and retaliated against a union steward for her protected activity.

This case arose from four different incidents that occurred at the County of Orange. First, three County employees who were also union site representatives spent approximately 30 minutes distributing union surveys to employees at their workstations in the County's social services building. A social services manager directed the three employees to leave, and the County's human resources manager directed the union to immediately stop distributing surveys "to employees in work areas during work time."

Second, the County removed two Workload Grievances the union had posted on its designated bulletin boards. The grievances "generally alleged that managers 'blatant[ly] disregard' employee safety, use 'intimidation' to discourage employees from raising workplace issues with [the union], and 'intimidate and threaten' discipline for failing to satisfy unclear productivity standards."
Third, the County made several changes to its

release time policy and practices without consulting with the union. Specifically, the County placed limits on the number of representatives eligible for release time for each given meeting, required site representatives to identify the employee they were meeting with, required 48 hours' notice of the need for release time, and discontinued the past practice of allowing site representatives release time to file grievances in person at County offices.

Fourth, the County reprimanded a union steward and intake worker after two public benefit applicants filed complaints against the steward. This employee-steward had also recently participated in MMBA protected activity. Specifically, this employee testified that around the same time management removed the grievances from the union's bulletin boards, the social services manager instructed her to remove the grievances from her cubicle. She also took substantial release time for union activities.

With regard to the County's order that the union stop distributing surveys, PERB found that the County disparately enforced restrictions on non-business activities in work areas during working time in violation of the MMBA. While an employer may restrict non-business activities during work time, it cannot single out union activities or enforce general restrictions more strictly against unions. Here, the County allowed employee-run social committees to fundraise for office parties, birthday celebrations, and other social events. In fact, the social services manager permitted these employee-run social committees to sell items cubicle to cubicle and allowed staff to purchase items during their work time. Yet, the social services manager ordered the union site representatives to leave after overhearing them ask employees about their working conditions and grievances, and the human resources manager directed the union to stop distributing surveys during work times.

While the County argued that the social committees' activities were not comparable to the union's survey distribution, PERB disagreed. PERB found that the union's activities were no more disruptive than the social committees' activities; the County's belief that the social committees improved employee morale did not justify disparate treatment to the union. PERB concluded that "[b]y allowing some minimally intrusive non-business activities in employees' work area during work hours, the County cannot simultaneously prohibit employees from engaging in a similar level of communication merely because it involves employee organizations."

PERB found that the County interfered with protected rights by removing the Workload Grievances the union posted on its designated bulletin boards. The County claimed that the grievances were derogatory and therefore unprotected. Employee speech may lose protection under the MMBA if it is so flagrant, insulting, or insubordinate that it causes a substantial disruption in the workplace. Speech may also lose protection if the statement is demonstrably false, and the employee knew or should have known the statement was false, or acted in reckless disregard to the truth. However, PERB concluded that while the grievances "were uncomplimentary to management, they were within the realm of rhetoric typically employed in labor disputes and which management is 'likely to encounter at least occasionally in the routine course of business.'" The County also did not offer evidence that the grievants knew the claims in the grievances were false or that they acted with reckless disregard for their truthfulness. PERB concluded that the language of the grievances was protected under the MMBA, and the County interfered with the union's rights when it removed them.

PERB determined that the County's changes to its release time policies and practices constituted a unilateral change. These changes resulted in denials of paid release time that employees and their representatives had previously been granted. As a result, the County forced representatives and employees to meet on their own personal time. PERB further noted that these changes have more than a de minimis impact on employees' wages and terms and conditions of employment. By not bargaining with the union over these changes, the County altered its release time policies in violation of the MMBA.

PERB found that the County failed to demonstrate that the reprimand it issued to the union steward was in good faith. When an employer's actions are motivated by both lawful and unlawful reasons, PERB considers whether the adverse action would have occurred "but for" the protected activity. When the evidence shows the employer relied on an accusation that it did not believe in good faith to be true, PERB has found the justification for discipline is a pretext for retaliation. While there were two complaints against the employee-steward, PERB focused in on only one of the complaints. PERB said that the County failed to resolve contradictory statements one of the complainants had made, and the County could not explain why it nonetheless determined that the complainant was credible. Because the County could not show that all of the events used to justify the reprimand actually occurred, PERB concluded that the County failed to prove that its stated reasons for reprimanding the employee-steward were the actual reasons it took that adverse action against her.

County of Orange, PERB Decision No. 2611-M (2018).

NOTE:

Agencies should consult with LCW attorneys before taking any disciplinary action after an employee has participated in protected MMBA rights. In order to avoid a claim of retaliation for protected activity, the employer must not discipline unless it can show reliable evidence that it honestly believed that the employee had violated conduct rules, and that the employer was disciplining for that misconduct and not protected activity.

PUBLIC RECORDS ACT

Right to Access Privately Held Records Does Not Establish Constructive Possession for a CPRA Request.

The Los Angeles Police Department ("LAPD") contracts with privately owned companies to tow and store impounded vehicles. These tow companies are referred to as Official Police Garages ("OPGs"). After an LAPD officer contacts an OPG to impound a vehicle, the OPG enters information regarding the impoundment into a database called the Vehicle Information Impound Center ("VIIC"). The VIIC database is maintained by a private organization comprised of OPGs called the Official Police Garage Association of Los Angeles ("OPGLA"). The OPG also scans its portion of a form prepared by the LAPD officer into a separate database called Laserfiche, which is owned by an independent document storage company that contracts with OPGLA.

Although LAPD contracts with numerous OPGs, the terms of each of the contracts are nearly identical. All OPG contracts required each OPG to "provide timely information to the VIIC" and to "participate in the [Laserfiche] System." The OPG contracts also state that all such records are subject to inspection by the City of Los Angeles and must be made available without notice. While the contracts provide that all work product created is City property, the OPG contracts also state that the OPGLA owns the VIIC and Laserfiche data.

Cynthia Anderson-Barker submitted a California Public Records Act ("CPRA") request to the LAPD seeking the data included in the VIIC and Laserfiche databases. LAPD refused to provide the data, explaining that it was owned by OPGLA and the OPGs. Anderson-Barker filed a petition to compel the City to disclose the data.

The trial court denied Anderson-Barker's petition finding that the City did not possess or control the VIIC or Laserfiche records. The California Court of Appeal also denied the petition.

The Court of Appeal found that the City's right to access the VIIC and Laserfiche data was insufficient to establish constructive possession for the purposes of the CPRA. The court noted that in order to establish an agency's duty to disclose a record, the person seeking disclosure must show that: (1) the record qualifies as a CPRA public record; and (2) the agency is in possession of the record, either actually or constructively. An agency has constructive possession

when it has the right to control the record.
The Court of Appeal relied on the U.S. Supreme Court case *Forsham v. Harris* (1980) 445 U.S. 169 for its position that access to data is insufficient to establish constructive position. In *Forsham*, the USSC explained that in order for information to be disclosable under the federal Freedom of Information Act, the agency must have a possessory interest in the record and that "potential access to the grantee's information" was not enough. The Court of Appeal analogized the CPRA to the Freedom of Information Act and concluded that mere access to privately held information was not sufficient to establish constructive possession.

Anderson-Barker v. Superior Court (City of Los Angeles), 31 Cal. App.5th 528 (2019).

Note:

CPRA requests are an especially relevant issue for police departments because new legislation has increased law enforcement agencies' obligations to disclose records. LCW regularly advises public agencies as to their CPRA obligations and defends them in CPRA litigation.

RETIREMENT

County Department of Education Required to Pay $3.3 Million in Additional Pension Fund Contributions.

The California Court of Appeal found that a county's Department of Education was required to pay $3.3 million in additional contributions in order to properly fund the retirement benefits promised to 22 retired employees.

Nearly 40 years ago, Orange County employed all education-related employees including teachers and principals. These employees were all members of the County Retirement System. In 1977, the County's Board of Supervisors transferred the "duties and functions of an educational nature" to the Orange County Department of Education ("OCDE"). The transfer agreement gave employees the option of becoming a member of the California Public Employee's Retirement System (CalPERS), or remaining with the County Retirement System. A small number of employees decided to stay with the County Retirement System.

The OCDE was required to make yearly contributions to the County Retirement System. These yearly contributions included two components: (1) the normal contribution rate to fund the employees' expected benefits for that year; and (2) Unfunded Actuarial Accrued Liability ("Unfunded Liability"), which funds unexpected benefits and costs.

In 2013, the OCDE stopped contributing to the County Retirement System after its last employee enrolled in the system retired because it believed it was no longer required to contribute. The County Retirement System did not immediately object.

In 2015, the County Retirement System informed the OCDE that it owed money for the Unfunded Liability attributed to 22 retired members still receiving benefits. The County Retirement System enacted a policy in order to collect these funds. Under this new policy, the County Retirement System directed the OCDE to pay $3.3 million in additional contributions. The OCDE filed a lawsuit to enjoin the County Retirement System from enforcing its new policy.

The OCDE argued that the 2015 policy was unlawful because it retroactively increased its liability, and because the Retirement Law does not permit the County Retirement System to collect additional funds from an "inactive employer." The Court of Appeal disagreed.

First, the Court of Appeal rejected the OCDE's argument that the policy was retroactive. The court reasoned that the Unfunded Liability OCDE owed arose from a variety of actuarial predictions and future estimates about often-fluctuating factors such as investment returns, pay increases, marital status at retirement, retiree and beneficiary life expectancies, salary increases, contribution rates, and inflation. Had the County Retirement experienced better investment returns over the years, the Unfunded

Liability may have been avoided entirely. But when the County Retirement System determined there would be a funding shortfall with respect to the 22 retired OCDE employees, it was required to ensure that those employees received their benefits without reduction. Thus, the court concluded that the County Retirement System's assessment for addition funds to pay the 22 retired employees their promised benefit was not retroactive.

Second, the Court of Appeal found that the Retirement Law does not prohibit the County Retirement System from collecting additional funds from OCDE. The OCDE had argued that the Retirement Law allowed the County Retirement System to seek addition contributions from "ongoing employers", but since the OCDE did not have any active employees on its payroll contributing to the County Retirement System, it was not an "ongoing employer." The Court found the OCDE was still an "ongoing employer" because that provision applies broadly to allow a retirement system to collect additional compensation from both active and inactive employers who have retired employees currently receiving benefits from the retirement system.
Thus, the Court of Appeal concluded that the County Retirement System was acting within its authority when it directed the OCDE to pay additional contributions.

Mijares v. County of Orange Employees' Retirement System, WL 651482 (2019)

Note:

> *This case demonstrates that the liability involved in misapplication of public retirement laws can be extremely high. LCW attorneys are experts in all public retirement issues and can help agencies ensure that they are making the necessary pension contributions.*

FIRST AMENDMENT

Anti-SLAPP Statute Did Not Protect the City's Speech About Its Agent for NFL Stadium Negotiations.

The California Supreme Court concluded that a City's actions were not protected under California's anti-SLAPP statute after a developer sued the City for failing to renew his contract.

In 2012, the City of Carson and Rand Resources agreed that Rand would be the City's exclusive authorized agent in negotiations with the National Football League ("NFL") to build a football stadium in Carson, California. The agreement prohibited the City from allowing anyone else to negotiate with the NFL on its behalf.

In April 2013, Rand claimed that the City breached its contract by allowing another company to act as its representative in negotiations with the NFL.

In July 2014, Rand submitted a request to renew its contract for an additional year. Before the City voted on Rand's request, the owner of the other company allegedly met with the City's mayor and at least one councilperson to discuss not extending Rand's agreement. The City Council later voted to deny the requested extension. As a result, Rand filed suit against the City, its mayor, and the owner of the other company for breach of contract, and related claims.

The City responded by filing an anti-SLAPP motion to strike Rand's claims. An anti-SLAPP motion asks the court to dismiss a lawsuit and to award attorney's fees, if the lawsuit attacks the defendant's protected free speech in connection with a public issue.

Most of the claims in Rand's lawsuit against the City alleged that the City concealed conversations about breaching Rand's contract, and misleading Rand by: meeting with the other company in secret; exchanging confidential emails with the other company; and falsely telling Rand that it would extend his contract if he showed reasonable progress. The City argued that its actions were protected because the City's communications with the other company to negotiate

with the NFL were made in connection with an issue under legislative-City Council review and in connection to an issue of public concern. The City argued this was "speech" protected under California's anti-SLAPP statute.

The California Supreme Court disagreed. The Court reasoned that the City's actions were not made in connection with an issue under legislative review because they were not considered by the City Council when it voted on whether to extend Rand's contract. For example, the City Attorney made the comment regarding extending Rand's contract in 2012, nearly two years before the renewal issue even came before the City Council. Further, the Court found that Rand's claims against the City were not an issue of public concern because they merely involved the identity of the City's exclusive agent. As a result, City was not entitled to anti-SLAPP protection.

Rand Resources, LLC v. City of Carson, 433 P.3d 899 (2019).

Note:

> *LCW has been very successful on anti-SLAPP motions on behalf of public agency clients. The anti-SLAPP motion can be a powerful tool to defeat lawsuits and recover attorney's fees without the need for expensive discovery.*

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 manager contacted LCW to ask if employers are allowed to look at an applicant's publicly available social media profile prior to hiring.

Answer: The attorney noted that there is a risk that an agency could face liability for discrimination if a hiring committee learns about an applicant's protected status by looking as his or her public social media profile. If an unsuccessful applicant learns that the hiring committee reviewed his or her social media page, the applicant may allege that he or she did not receive a job offer based on a protected classification. The attorney recommended placing a "wall" between the individual looking up an applicant's social media profile and the hiring committee so that an individual with no decision-making authority conducts the social media search and presents only information that may lawfully be considered to the committee.

§

Management Training Workshops

Firm Activities

Consortium Training

March 7 **"Leaves, Leaves and More Leaves"**
Gateway Public ERC | Lakewood | Mark Meyerhoff

March 7 **"Maximizing Supervisory Skills for the First Line Supervisor"**
Monterey Bay ERC | Seaside | Heather R. Coffman

March 7 **"Human Resources Academy I"** & **"Prevention and Control of Absenteeism and Abuse of Leave"**
San Joaquin Valley ERC | Stockton | Michael Youril

March 13 **"Issues and Challenges Regarding Drugs and Alcohol in the Workplace"** & **"The Future is Now-Embracing Generational Diversity and Succession Planning"**
Coachella Valley ERC | Palm Desert | Christopher S. Frederick

March 14 **"Issues and Challenges Regarding Drugs and Alcohol in the Workplace"** & **"Negotiating Modifications to Retirement and Retiree Medical"**
East Inland Empire ERC | Fontana | T. Oliver Yee

March 14 **"MOU Auditing and The Book of Long Term Debt"** & **"Introduction to the FLSA"**
Mendocino County ERC | Ukiah | Richard Bolanos

March 14 **"12 Steps to Avoiding Liability"** & **"Nuts & Bolts: Navigating Common Legal Risks for the Front Line Supervisor"**
San Diego ERC | Vista | Mark Meyerhoff

March 15 **"Workplace Bullying: A Growing Concern"**
LA County HR Consortium | Los Angeles | Christopher S. Frederick

March 19 **"An Agency's Guide to Employee Retirement"** & **"Human Resources Academy II"**
North San Diego County ERC | Temecula | Frances Rogers

March 20 **"Unconscious Bias"**
NorCal ERC | Webinar | Suzanne Solomon

March 20 **"Leaves, Leaves and More Leaves"** & **"Public Service: Understanding the Roles and Responsibilities of Public Employees"**
Sonoma/Marin ERC | Rohnert Park | Kelly Tuffo

March 20 **"The Art of Writing the Performance Evaluation"** & **"File That! Best Practices for Document and Record Management"**
Ventura/Santa Barbara ERC | Thousand Oaks | T. Oliver Yee

March 21 **"Workplace Bullying: A Growing Concern"** & **"Nuts & Bolts: Navigating Common Legal Risks for the Front Line Supervisor"**
Orange County Consortium | Brea | Danny Y. Yoo

March 21 **"Administering Overlapping Laws Covering Discrimination, Leaves and Retirement"**
San Mateo County ERC | Redwood City | Richard Bolanos & Jessica Tyndall

March 27 **"The Future is Now - Embracing Generational Diversity and Succession Planning"** & **"Nuts and Bolts: Navigating Common Legal Risks for the Front Line Supervisor"**
Bay Area ERC | Santa Clara | Erin Kunze

March 27	**"Managing the Marginal Employee"** Gold Country ERC | Webinar & Placerville | Kristin D. Lindgren
March 28	**"Nuts & Bolts: Navigating Common Legal Risks for the Front Line Supervisor"** & **"Leaves, Leaves and More Leaves"** Central Valley ERC | Hanford | Che I. Johnson
April 3	**"Administering Overlapping Laws Covering Discrimination, Leaves and Retirement"** Central Coast ERC | Pismo Beach | Richard Goldman & Michael Youril
April 3	**"Workplace Bullying: A Growing Concern"** & **"Human Resources Academy I"** Gold Country ERC | Citrus Heights | Suzanne Solomon
April 3	**"Maximizing Performance Through Evaluation, Documentation and Corrective Action"** Humboldt County ERC | Arcata | Kristin D. Lindgren
April 4	**"The Future is Now - Embracing Generational Diversity and Succession Planning"** Humboldt County ERC | Arcata | Kristin D. Lindgren
April 4	**"The Art of Writing the Performance Evaluation"** & **"Nuts & Bolts: Navigating Common Legal Risks for the Front Line Supervisor"** Napa/Solano/Yolo ERC | Fairfield | Gage C. Dungy
April 4	**"Leaves, Leaves and More Leaves"** & **"Technology and Employee Privacy"** West Inland Empire ERC | Diamond Bar | Mark Meyerhoff
April 10	**"Human Resources Academy I"** & **"Workplace Bullying: A Growing Concern"** North State ERC | Red Bluff | Kristin D. Lindgren
April 10	**"Legal Issues Regarding Hiring and Promotion"** & **"Human Resources Academy II"** San Gabriel Valley ERC | Alhambra | Christopher S. Frederick
April 11	**"Preventing Workplace Harassment, Discrimination and Retaliation"** Gateway Public ERC | South Gate | Jenny-Anne S. Flores
April 11	**"Workers Compensation: Managing Employee Injuries, Disability and Occupational Safety"** Imperial Valley ERC | Brawley | Jeremy Heisler, Goldman Magdalin & Krikes
April 11	**"Nuts & Bolts Navigating Common Legal Risks for the Front Line Supervisor"** LA County HR Consortium | Los Angeles | Danny Y. Yoo
April 11	**"Public Service: Understanding the Roles and Responsibilities of Public Employees"** Monterey Bay ERC & San Mateo County ERC | Webinar | Heather R. Coffman
April 11	**"Introduction to the FLSA"** South Bay ERC | Inglewood | Jennifer Palagi
April 16	**"Navigating the Crossroads of Discipline and Disability Accommodation"** & **"Legal Issues Regarding Hiring and Promotion"** North San Diego County ERC | Vista | Mark Meyerhoff
April 17	**"Public Sector Employment Law Update"** & **"Human Resources Academy II"** Central Valley ERC | Los Banos | Shelline Bennett
April 17	**"Managing the Marginal Employee"** & **"Difficult Conversations"** NorCal ERC | Alameda | Casey Williams

April 17 **“Preventing Workplace Harassment, Discrimination and Retaliation”**
Orange County Consortium | Fountain Valley | Ronnie Arenas

April 18 **“Human Resources Academy II”** & **“Leaves, Leaves and More Leaves”**
San Joaquin Valley ERC | Ripon | Gage C. Dungy

April 23 **“Case Study for Managing Illnesses or Injuries”** & **“The Disability Interactive Process”**
Bay Area ERC | Hayward | Morin I. Jacob

April 25 **“Difficult Conversations”** & **“Managing the Marginal Employee”**
Mendocino County ERC | Ukiah | Casey Williams

Customized Training

March 5,20,27 **“Preventing Workplace Harassment, Discrimination and Retaliation”**
City of Carlsbad | Stephanie J. Lowe

March 5 **“Maximizing Supervisory Skills for the First Line Supervisor”**
City of Glendale | Laura Drottz Kalty

March 5 **“HR for Non-HR Managers”**
ERMA | Tehachapi | James E. Oldendorph

March 5 **“Preventing Workplace Harassment, Discrimination and Retaliation”**
ERMA - City of Barstow | Kevin J. Chicas

March 6 **“Performance Management/Progressive Discipline”**
City of Ontario | Laura Drottz Kalty

March 6 **“Preventing Workplace Harassment, Discrimination and Retaliation and Mandated Reporting”**
East Bay Regional Park District | Castro Valley | Erin Kunze

March 7 **“Preventing Workplace Harassment, Discrimination and Retaliation”**
City of Buena Park | Danny Y. Yoo

March 8 **“Ethics in Public Service”**
County of San Luis Obispo | San Luis Obispo | Christopher S. Frederick

March 11 **“Creating Positive Workplace Culture with Communication, Conflict Resolution and Civility”**
City of Rialto | Kristi Recchia

March 13 **“Weingarten Rights/Progressive Discipline”**
City of Ontario | Laura Drottz Kalty

March 13 **“Preventing Workplace Harassment, Discrimination and Retaliation”**
ERMA - City of Sanger | Michael Youril

March 14 **“Public Service: Understanding the Roles and Responsibilities of Public Employees”**
City of Concord | Heather R. Coffman

March 14 **“Ethics in Public Service”**
City of Rancho Cucamonga | Kevin J. Chicas

March 14 **“The Art of Writing the Performance Evaluation”**
Port of Oakland | Oakland | Lisa S. Charbonneau

March 14 **“Preventing Workplace Harassment, Discrimination and Retaliation and Ethics in Public Service”**
Three Valleys Municipal Water District | Claremont | Christopher S. Frederick

March 19	**"Preventing Workplace Harassment, Discrimination and Retaliation"** Port of Stockton | Stockton | Jack Hughes
March 20	**"Preventing Workplace Harassment, Discrimination and Retaliation"** City of Stockton | Gage C. Dungy
March 20	**"Legal Issues Update"** Orange County Probation | Santa Ana | Christopher S. Frederick
March 22	**"Laws and Standards for Supervisors"** Orange County Probation | Santa Ana | Laura Drottz Kalty
March 23	**"Preventing Workplace Harassment, Discrimination and Retaliation"** City of Newport Beach | Christopher S. Frederick
March 27	**"Preventing Workplace Harassment, Discrimination and Retaliation"** City of Lynwood | Kevin J. Chicas
March 27	**"Preventing Workplace Harassment, Discrimination and Retaliation"** Silicon Valley Clean Water | Redwood City | Casey Williams
March 28	**"Preventing Workplace Harassment, Discrimination and Retaliation and Ethics in Public Service"** City of Rocklin | Kristin D. Lindgren
March 28	**"Bias in the Workplace"** ERMA | Santa Fe Springs | Danny Y. Yoo
April 3	**"Preventing Workplace Harassment, Discrimination and Retaliation"** City of Stockton | Kristin D. Lindgren
April 3	**"Training Academy for Workplace Investigators: Core Principles, Skills & Practices for Conducting Effective Workplace Investigations"** County of Merced | Merced | Shelline Bennett
April 3	**"Preventing Workplace Harassment, Discrimination and Retaliation"** ERMA - City of Mt. Shasta | Mt. Shasta | Gage C. Dungy
April 3	**"The Art of Writing the Performance Evaluation"** Housing Authority of the City of Alameda | Alameda | Casey Williams
April 12	**"Preventing Workplace Harassment, Discrimination and Retaliation"** County of San Luis Obispo | San Luis Obispo | Christopher S. Frederick
April 16	**"Introduction to the Fair Labor Standards Act"** Zone 7 Water Agency | Livermore | Lisa S. Charbonneau
April 17	**"Maximizing Supervisory Skills for the First Line Supervisor"** City of Stockton | Kristin D. Lindgren
April 17	**"Preventing Workplace Harassment, Discrimination and Retaliation"** Orange County Mosquito and Vector Control District | Garden Grove | Christopher S. Frederick
April 17	**"Maximizing Supervisory Skills for the First Line Supervisor"** Port of Oakland | Oakland | Heather R. Coffman
April 23,24	**"Preventing Workplace Harassment, Discrimination and Retaliation"** Conejo Recreation and Park District | Thousand Oaks | Danny Y. Yoo

April 24 **"Preventing Workplace Harassment, Discrimination and Retaliation"**
City of Stockton | Gage C. Dungy

April 24 **"Legal Issues Update"**
Orange County Probation | Santa Ana | Christopher S. Frederick

Speaking Engagements

March 15 **"Minding the Minefield of Gender Pay Equity - Staying Compliant and Being Fair"**
CalGovHR 2019 California State Public Sector HR Conference & Expo | Rohnert Park | Kristin D. Lindgren

March 28 **"Legal Update"**
County Personnel Administrators Association of California (CPAAC) | Lodi | Gage C. Dungy

March 29 **"Legal Update"**
NORCAL-HR Spring Conference | Pacific Grove | Gage C. Dungy

April 8 **"FLSA Update"**
National Public Employer Labor Relations Association (NPELRA) Annual Training Conference | Scottsdale | Lisa S. Charbonneau

April 8 **"Propelling Your District Forward in Challenging Situations"**
Special District Leadership Academy (SDLA) Spring Conference | San Diego | Stephanie J. Lowe

April 9 **"Defining Board & Staff Roles and Relationships"**
SDLA Spring Conference | San Diego | Stephanie J. Lowe

April 11 **"Legal Update"**
SCPMA-HR | Long Beach | J. Scott Tiedemann

April 12 **"Post Janus Case Developments and Legislation"**
California Lawyers Association's (CLA) Labor and Employment Law Section Annual Public Sector Conference | Sacramento | Che I. Johnson & Scott Kronland & Sheena Farro

April 24 **"Human Resources Boot Camp for Special Districts"**
California Special Districts Association (CSDA) | Simi Valley | Joung H. Yim

Seminars/Webinar

March 6,7 **"2-Day Intensive FLSA Academy"**
Liebert Cassidy Whitmore | Alhambra | Peter J. Brown & Kristi Recchia

March 6 **"Train the Trainer Refresher: Harassment Prevention"**
Liebert Cassidy Whitmore | Los Angeles | Christopher S. Frederick

March 13 **"Regular Rate of Pay – To Include or Not to Include?"**
Liebert Cassidy Whitmore | Webinar | Richard Bolanos

March 13 **"Train the Trainer: Harassment Prevention"**
Liebert Cassidy Whitmore | San Francisco | Erin Kunze

March 19 **"Train the Trainer Refresher: Harassment Prevention"**
Liebert Cassidy Whitmore | San Francisco | Erin Kunze

March 21 **"Communication Counts!"**
Liebert Cassidy Whitmore | Roseville | Jack Hughes & Kristi Recchia

April 8 **"Mandated Ethics for Public Officials"**
Liebert Cassidy Whitmore | Webinar | Michael Youril

April 10 **“Your Managers Just Organized – What Do You Do? Labor Relations & Your EERR”**
Liebert Cassidy Whitmore | Webinar | Che I. Johnson

April 12 **“Train the Trainer: Harassment Prevention”**
Liebert Cassidy Whitmore | Los Angeles | Christopher S. Frederick

April 15 **“Cafeteria Plan Compliance – Mid-Year Election Changes and More”**
Liebert Cassidy Whitmore | Webinar | Heather DeBlanc & Stephanie J. Lowe

April 23 **“Best Practices for Conducting Fair and Legally Compliant Internal Affairs Investigations (Day 1)”**
Liebert Cassidy Whitmore | Citrus Heights | Jack Hughes & Suzanne Solomon

April 24 **“Best Practices for Conducting Fair and Legally Compliant Internal Affairs Investigations (Day 2)”**
Liebert Cassidy Whitmore | Citrus Heights | Jack Hughes & Suzanne Solomon

New to the Firm

Austin Dieter joins our San Francisco office where he provides advice and counsel as well as litigation assistance to the firm’s public entity clients. Austin is experienced in a full array of employment matters, including wage and hour claims under FLSA, discrimination, harassment and retaliation claims under FEHA and Title VII, and disability discrimination claims under the ADA. He can be reached at 415.512.3052 or adieter@lcwlegal.com.

Firm Publications

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

“Changes to Sexual Harassment Laws Could Open California Employers to Increased Liability” quote by **Jesse Maddox** of our Fresno and Sacramento offices, appeared in the February 1, 2019 issue of the *San Gabriel Valley Tribune* and the *Orange County Register.*

The ***Client Update*** is available via e-mail. If you would like to be added to the e-mail distribution list, please visit https://www.lcwlegal.com/news. **Please note:** By adding your name to the e-mail distribution list, you will no longer receive a hard copy of the ***Client Update***.

If you have any questions, contact **Sara Gardner-Madiuk** at 310.981.2000 or at info@lcwlegal.com.

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