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Dear Melanie,

Happy Holidays from Stephen Danz & Associates! In this issue of our email newsletter, we highlight some of the most notable employment laws coming into effect in 2013. Additionally please find a touching testimonial from a recent client and information regarding our rewarding attorney referral program.

We wish you a joyous holiday season and hope you enjoy this month's email newsletter.

Warmest Wishes,

Stephen Danz

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& Associates

New California Employment Laws for 2013

Governor Jerry Brown recently signed into law a number of employment-related bills that may have a significant impact on California employers and employees. We have summarized the following noteworthy laws that will be enacted in 2013:



FEHA's Definition of "Sex" Expanded to Protect Breastfeeding

The California Legislature has taken another step to expand the definition of "sex" under the California Fair Employment and Housing Act (FEHA), which prohibits specified discriminatory practices in employment. Under existing law, "sex" includes gender, pregnancy, childbirth, and medical conditions related to pregnancy or childbirth. AB 2386 expands the definition of "sex" to include breastfeeding and medical conditions relating to breastfeeding.

Organ And Bone Marrow Donor Leave

SB 272 and SB 1304 allows employees to take paid leaves of absence for bone marrow and organ donation. Employees may take leaves for organ donation of up to 30 business days and for bone marrow donation of up to five business days in a one-year period,



Client Testimonial

Mr. Danz and Ms. Porter,

"Thank you very much for your legal assistance a few weeks back. Your willingness to write, speak over the phone, and meet with me was extremely generous.

...
Furthermore, the way in which you treated my family and I was overwhelming. In a calm, compassionate, and sincere fashion, you were able to explain to us very clearly several meaningful options in which to resolve the conflict I had with my employer. On the drive home from meeting with both of you, I felt for the first time in a long time, a sense of relief and renewed ability to enjoy the moment.

...
Your confidence and professionalism in all of my interactions with you allowed me to trust you completely when advice was offered. I wrote a forceful letter to my employer that was as closely in line with the advice you gave I as could create. Immediately after, I recieved verbal and written reassurances that the matter

measured from the date the employee's leave begins.

Religious Accommodation under FEHA Enhanced

Under FEHA, employers must reasonably accommodate religious beliefs and observances of their employees unless the accommodation would create an undue hardship for the employer. AB 1964 clarifies that religious dress and grooming practices are covered "beliefs and observances." In addition, the new law states that FEHA's "significant difficulty or expense" definition of undue hardship, not the narrower federal Title VII standard, applies to the FEHA religious discrimination section. AB 1964 also specifies that segregation, such as assigning an employee to a stock room out of public view, will no longer be an acceptable religious accommodation.

Whistleblower Protection Under False Claims Act Expanded

AB 2492 amends Government Code § 12653 to expand whistleblower protections under California's False Claims Act. This bill also adds a new section that applies not only to employees but also to all contractors and agents.

Expands FEHA Protection to Gender Identity And Expression

AB 887 amends FEHA to define "gender" to include both gender identity and "gender expression"

Discrimination Based On "Genetic Information" Prohibited

SB 559 expands the prohibited bases of discrimination under the Unruh Civil Rights Act and FEHA to include genetic information.

Additional Pregnancy Disability Leave Protections

SB 299 requires employers with five or more employees to maintain and pay for health coverage under a group health plan for any eligible female employee who takes up to four months of leave due to pregnancy, childbirth or a related medical condition in a 12-month period.

Additionally AB 592 clarifies that it is an unlawful employment practice for an employer to "interfere with," restrain, or deny the exercise of any right provided under the CFRA, or due to disability by pregnancy, childbirth, or related medical conditions.

Written Commission Agreements Must Be in Writing (AB 2675)

Effective January 1, 2013, Labor Code § 2751 will go into effect (repealing Labor Code § 2752) and requiring all employers entering into a contract of employment involving commissions as a method of payment must: (1) put the contract in writing; (2) set forth the method by which the commissions shall be computed and paid; and (3) give a signed copy of the contract to every employee who is a party thereto and obtain a signed receipt for the contract from each employee.

Labor Code § 2751 also provides that in the case of a contract that expires and where the parties nevertheless continue to work under the terms of the expired contract, the contract terms are presumed to remain in full force and effect until the contract is superseded or employment is terminated by either party. The term "commissions" does not include short-term productivity

was being dealt with promptly. Every part of what I was asking for was granted, and then some.

...

At the moment, I give you my most sincere appreciation. You both seemed genuinely driven by a desire to help someone who did not readily see how to help himself. That to me is the definition of love and compassion. Thank you for treating my wife, daughter, and I with such love and compassion."

- Brendan C.

bonuses such as are paid to retail clerks; and it does not include bonus and profit-sharing plans, unless there has been an offer by the employer to pay a fixed percentage of sales or profits as compensation for work to be performed.

Employee Rights To Inspect Personnel Files Clarified

While existing California law already provides employees with the right to inspect their personnel files, the law was previously unsettled on certain specifics of that process. AB 2674 eliminates some of that confusion by amending the Labor Code to specifically require that employers retain personnel files for at least 3 years following termination of employment, and to permit current and former employees (or their representatives) to inspect and receive a copy of their personnel records within 30 days of a request to do so.

The new law also specifies that an employer is not required to comply with more than 50 requests for copies of personnel records by "a representative or representatives of" employee(s) in one calendar month. In addition, the new law requires that employers develop, and provide upon request, a written form employees may use to request access to, and a copy of, records in their personnel file.

Temporary Services Employers Must Provide Extra Detail on Wage Statements and Wage Theft Act Notices

Beyond the extensive wage statement requirements already in place for California employers under the Labor Code, AB 1744 will amend the Code to require that temporary services employers (with the exception of certain security services companies) include additional information on employee wage statements. Specifically, temporary service employers will also have to include the rate of pay for each separate assignment, the name and address of each entity that secured the temporary employee's services, and the total hours worked for each such entity. Additionally this bill amends Labor Code § 2810.5 to require employers to provide a Wage Theft Act notice that includes contact information for the employer and the legal entity for whom the employee will perform work. These new requirements for temporary services employers will not take effect until July 1, 2013.

Governor Brown Vetoes "Unemployed Need Not Apply" Bill

In welcome news for California employers, Governor Brown vetoed AB 1450, which would have attempted to curb discrimination based on unemployment status by prohibiting job advertisements stating that current employment is a requirement for consideration for a job. Governor Brown wrote in his veto message that, "as this measure went through the legislative process it was changed in a way that could lead to unnecessary confusion." According to the office of the bill's author, there are no plans to attempt to override the veto.

Expansion of CFRA Held Under Submission

AB 2039, another bill that has received attention due to its proposed significant expansion of the California Family Rights Act (CFRA), is being held under submission in the California Senate so that its fiscal impact may be studied. Under CFRA, an employer with 50 or more employees must permit an eligible employee to take up to 12 weeks of leave in a 12-month period to care for the serious medical condition of a child (under 18 years of age or adult dependent), spouse, or parent.

The current definition of "parent" includes stepparents and individuals who act as a parent ("in loco parentis") to the child. AB 2039 would expand the circumstances under which CFRA leave may be taken by (1) eliminating current age and dependency requirements for children, thereby permitting an employee to take leave to care for an adult child; (2) expanding the definition of "parent" to include parents-in-law; and (3) permitting an employee to take leave to care for a grandparent, sibling, or grandchild. The bill also clarifies that employees have the same rights to care for a seriously ill domestic partner as they do for a seriously ill spouse. For now, however, the future of AB 2039 remains uncertain.

Employee Social Media Privacy Interests Protected

AB 1844, an addition to the California Labor Code, will prohibit employers from requiring or requesting that employees or applicants disclose their user name or password information for any personal social media, or that they "divulge" any personal social media. "Social media" is broadly defined to include any "electronic service or account, or electronic content, including, but not limited to, videos, still photographs, blogs, video blogs, podcasts, instant and text messages, email, online services or accounts, or Internet Web site profiles or locations." A limited exception will allow employers to ask employees to divulge their personal social media for the purpose of an investigation into alleged employee misconduct or violations of law. As many of you may recall, this bill was highlighted in our last email newsletter.

Limits Depositions To One 7-Hour Day Unless Employment Case

AB 1875 amends Code of Civil Procedure § 2025.290 to impose a one-day, seven-hour time limit on depositions. The law includes an express exception for employment cases.

About Our Firm

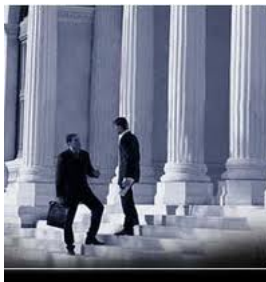
With over 30 years of trial and settlement experience, Stephen Danz & Associates is California's largest employee only, statewide law firm with offices in Los Angeles (Mid-Wilshire, Brentwood, Pasadena), Orange County, San Diego, Fresno, San Bernardino, Oakland, San Francisco, Santa Rosa and Sacramento. Our firm is dedicated to representing employees in disputes against their employers. Our attorneys represent employees in class actions, wrongful termination cases, discrimination (age, sex, race, national origin, and physical or medical condition), whistleblower and harassment cases, wage disputes, overtime pay cases, and rest and meal period cases.



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Online Referral Form

Sincerely,

Melanie Porter
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