



FALL 2013 NEWSLETTER

Dear Melanie,

Greetings from Stephen Danz & Associates! It was a pleasure speaking with many of you at the last CAALA convention in Las Vegas. We are pleased to announce the **WINNER** of our raffle for the Lake Tahoe vacation rental is...

Jennifer A. Lipski

The Law Office of Joseph M. Lovretovich

CONGRATULATIONS!

The winner will receive a one-week stay at a Lake Tahoe Condo overlooking the beautiful lake! Please contact our office at the phone number located below and we will advise on how to obtain your reward.

In this month's email newsletter, we highlight some important employment laws coming into effect in 2014 and provide an article regarding AB 292, which amends FEHA and overturns the California Court of Appeals decision in *Kelley v. Conoco Companies* by setting forth that an individual who sues for sexual harassment does not need to prove that the sexually harassing conduct was motivated by sexual desire. We have also provided information regarding our exciting attorney referral program. We hope you will enjoy this month's newsletter!

Sincerely,

Melanie Porter
Stephen Danz

New Employment Laws for 2014



Governor Edmund G. 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:

Minimum Wage Increase and Liquidated Damages for Violations

AB 10 - increases minimum wage to \$9/hr effective July 1, 2014, and further increases it to \$10/hr effective January 1, 2016.

AB 442 - provides for liquidated damages against employers that pay employees less than minimum wage, in addition to other civil and criminal penalties.

Overtime for Domestic Workers

AB 241 - adds § 1450 to the California Labor Code (the "Domestic Worker Bill of Rights"). Under this new law, individuals who work in many household occupations are now entitled to overtime at a rate of 1.5 times their regular rate for all hours worked in excess of 9 hours per day or 45 hours per week. The law excludes "casual babysitters" whose work is intermittent or irregular or are under the age of 18, and it also excludes residential care facilities

workers. This law comes into effect January 1, 2014.

FEHA Expanded to Protect Military Veterans

AB 556 - adds "military and veteran status" to the list of categories protected by employment discrimination under the Fair Employment and Housing Act ("FEHA").

Paid Family Leave Expansion

SB 770 - expands the scope of California's family temporary disability insurance program. Under the current program, employees who take time off to care for a seriously ill child, spouse, parent or domestic partner, or for baby bonding, are entitled to partial wage replacement benefits through this state insurance program administered by the EDD. Under the new law, these benefits are expanded to also be provided to employees who take time off to care for a seriously ill grandparent, grandchild, sibling or parent-in-law.

Protection from Retaliation for Engaging in Immigration-Related Practices

AB 263 - adds a new section to the Labor Code prohibiting specified "unfair immigration related practices." The new law prohibits an employer from retaliating or taking adverse action against any employee or applicant for employment because the employee or applicant has engaged in protected conduct. The bill also expands the protected conduct to include a written or oral complaint by an employee that he or she is owed unpaid wages. This bill provides for reinstatement and reimbursement for lost wages and a civil penalty of up to \$10,000 per violation. No exhaustion of administrative remedies will be necessary.

Employment Protection: Time off to Testify in Court

SB 288 - requires that leave be provided for certain employees who are victims of specified crimes so that they may appear in court to testify.

Bad Faith Required for Prevailing Employer's Fee Award

SB 462 - amends California Labor Code § 218.5 to provide that a prevailing employer may *only* recover attorneys' fees if a trial court finds that the employee brought the wage action in *bad faith*. With this amendment, it will be even more difficult and rare for a prevailing employer to recover attorneys' fees in wage and hour actions in California.

SB 292: Proof of Sexual Desire Not Required for Sexual Harassment Claim under FEHA



On August 2, 2013, Governor Brown signed into law [SB 292](#), which amends section 12940 of the California Fair Employment and Housing Act ("FEHA"). This bill sought to address the decision of *Kelley v. Conoco Companies* (Cal. App. 1st Dist. 2011) 196 Cal.App.4th 191, which held that a plaintiff in a same-sex harassment suit must prove that the harasser harbored a sexual desire for the plaintiff in order to survive summary judgment.

The *Kelley* decision directly contradicted a sister court's ruling in *Singleton v. United States Gypsum Co.* (2006) 140 Cal.App.4th 1547, and ignored key provisions of the leading U.S. Supreme Court's decision on same-sex sexual harassment, *Oncale v. Sundowner Offshore Services, Inc.* (1998) 523 U.S. 75. The *Kelley* court improperly limited the evidentiary routes through which a plaintiff may prove discrimination because of sex, failing to follow *Oncale* and *Singleton* and turning hostile work environment theory on its head, by requiring a showing of sexual desire.

SB 292 overturns the *Kelley* decision and clarifies that sexual harassment under FEHA does not require proof of sexual desire towards plaintiff.

Read full decision of [Singleton v. United States Gypsum Co.](#)

Read full decision of [Oncale v. Sundowner Offshore Services, Inc.](#)



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) and harassment cases, wage disputes, overtime pay cases, and rest and meal period cases.

Our experienced lawyers have represented thousands of employees throughout the State of California and have won numerous trials and arbitrations on their behalf. If you think you have a possible claim please contact our office immediately. We don't make empty promises - we deliver results. We provide free initial consultations. No Attorneys' fees unless we make a recovery on your behalf.



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