



# Employment Law Update

Presented By: Susan DeNardo



# MEET OUR TEAM



Rob Kramer  
Executive Director  
Rob.Kramer@sedgwick.com



Stacey Sullivan  
Litigation Manager  
Stacey.Sullivan@sedgwick.com



Susan DeNardo  
Litigation Management  
Susan.Denardo@sedgwick.com



Yvette Flama  
Board Secretary & Training  
Coordinator  
Yvette.Flama@sedgwick.com

# AGENDA

- Introduction
- Trends and Tactics
- Interesting New Laws
- Calling Remote Workers Back to the Office
- Key Takeaways

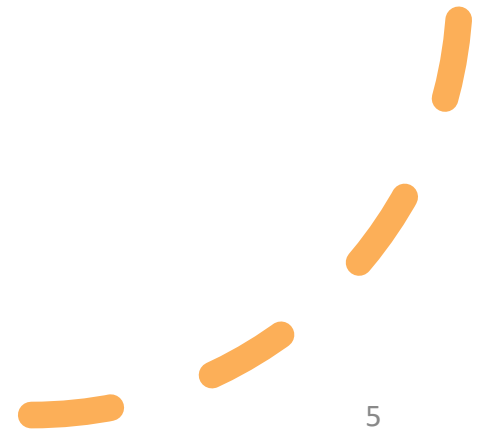
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# Recent Verdicts

- *Patricia Toscano v. City of Oakland* (May 6, 2024)
  - \$2.62 million
- *Yosifi v. The Regents of the University of California* (December 5, 2023)
  - \$6 million
- *Vince v. City of Los Angeles* (March 2023)
  - \$10 million
- *Casteel v. City of Riverside* (September 2023)
  - \$2.8 million

# State of Employment Law in California

- Jury Verdicts
- Number of claims
- Demands and Value
- New strategies

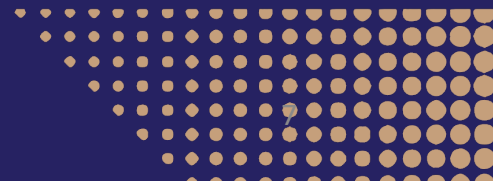


# California Laws

- SB 497 Rebuttable Presumption and Retaliation (January 1, 2024)
- SB 553 Workplace Violence Prevention (July 1, 2024)
- AB 933 Defamation lawsuits, Employee Defendants (January 1, 2024)
- SB 848 Reproductive Leave (January 1, 2024)
- AB 2188 Marijuana (January 1, 2024)
- SB 700 Penalizing Cannabis (January 1, 2024)
- SB 1137 Discrimination of Claims: combination of characteristics (January 1, 2025)
- AB 1815 Discrimination: race: hairstyles (January 1, 2025)
- AB 2123 Disability compensation: paid family leave (January 1, 2025)
- SB 731 Work from Home - Vetoed

# CALLING EMPLOYEES BACK TO THE OFFICE

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# BACK TO THE OFFICE

- Identify the reasons for returning to the office.
- Incentives to encourage employees to return to the office.
- Have some flexibility in scheduling.
- Evaluate potential for discriminatory impact.
- Evaluate next steps for employees who refuse to return to the office.
- Have open and clear communication with employees regarding reasons for return to office.



# BACK TO THE OFFICE

- Mental health disability discrimination complaints
- 16% rise in charges of discrimination against employers between 2021 and 2022 for discrimination based on anxiety, depression and PTSD
  - Equal Employment Opportunity Commission

# FAILURE TO ACCOMMODATE CLAIMS

- The elements of a failure to accommodate claim are:
  - (1) Plaintiff has a disability under the Fair Employment and Housing Act;
  - (2) Plaintiff is qualified to perform the essential functions of the position, and;
  - (3) the employer failed to reasonably accommodate the plaintiff's disability.
- The Fair Employment and Housing Act requires an employer to accommodate only **known** disabilities.
- The Employee bears the burden of giving his or her employer notice of his or her disability.
- Where the disability results in limitations, and necessary reasonable accommodations, are not open, obvious, and apparent to the employer, the employee bears the burden to specifically identify the disability and resulting limitations, and to suggest reasonable accommodations.

# THINGS YOU CAN DO

- Consider the essential functions of the job and whether the accommodation requested can meet those essential functions.
- Ask for a health provider note stating the employee's disability limits them in a major life function and that the appropriate accommodation is remote work.
- Consider other accommodations: Duration, Location, Service Animals, Different Job, Leave of Absence.
- Don't discriminate!

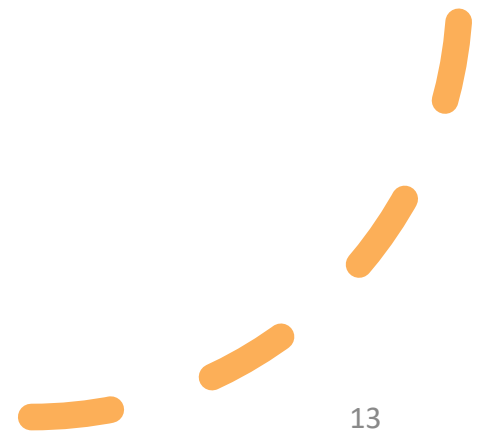


# MONITORING

- Internet and app usage
  - URL blocking, web filtering, and site restrictions
- Video and screen capturing
- Keystroke logging
- GPS software
- Privacy laws
- Consent

# Takeaways

- Written policies and agreements
- Written job descriptions
  - Clear expectations
  - Essential functions
- Update trainings and posters
- Engage in the interactive process
- Doctor's note
- Document



# QUESTIONS?

## **Rob Kramer**

Executive Director

[rob.kramer@sedgwick.com](mailto:rob.kramer@sedgwick.com)

916.995.9391

## **Yvette Flama**

Board Secretary &  
Training Coordinator

[yvette.flama@sedgwick.com](mailto:yvette.flama@sedgwick.com)

916.730.2667

*For more information please contact [ERMATraining@Sedgwick.com](mailto:ERMATraining@Sedgwick.com)*



# THANK YOU

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