

# Legal Update

League of California Cities Fire Chiefs  
Leadership Seminar | December 12, 2018

*Presented By: Morin I. Jacob*



# Personnel - General



- California Supreme Court Adopts “ABC Test” for Independent Contractor Status.
  - *Dynamex Operations West, Inc. v. Superior Court* (2018) 4 Cal.5th 903.

# Personnel - Discipline



- A Probationary Police Officer Has A Constitutional Right Of Privacy That Could Preclude Discipline For An Extra-Marital Affair With A Fellow Officer.
  - *Perez v. City of Roseville* (2018 9th Cir.) 882 F. 3d 843.

# Personnel - Discipline



- Probationary Employee Did Not Hold Property Interest in Employment.
  - *Palm v. Los Angeles Department of Water and Power* (9th Cir. 2018) 889 F.3d 1081.

# Personnel - Discipline



- Employer Reasonably Relied on Workplace Investigation When It Decided to Terminate Manager.
  - *Jameson v. Pacific Gas and Electric Company* (2017) 16 Cal.App.5th 901.

# Personnel - Discipline



- Last Chance Agreement Violated Public Employee's Free Speech Rights.
  - *Barone v. City of Springfield, Oregon* (9th Cir. 2018) 902 F.3d 1091.

# Personnel – Retaliation



- Paid Administrative Leave May Constitute Adverse Employment Action.
  - *Whitehall v. County of San Bernardino* (2017)  
17 Cal.App.5th 352.

# Discrimination - Gender



- Sexual Orientation Claim Survives Summary Judgment Because Of Comments About Personal Appearance.
  - *Husman v. Toyota* (2017) 12 Cal.App.5th 1168.



# Discrimination - Disability



- Employer Defeats Disability Claims After Employee Could Not Show Link Between His Post-Discipline Sleep Apnea Diagnosis And His Failure To Respond To 10 Calls To Work.
  - *Alamillo v. BNSF Railway Company* (9th Cir. 2017) 869 F.3d 916.

# Thank You!



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