



# Labor and Employment Litigation Update

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Presented By: Suzanne Solomon

# Anti-Discrimination Laws

U.S. Supreme Court Concludes That County Forfeited Its Late Objection That an EEOC Complaint Failed to Reference a Protected Status the Employee Pursued in A Title VII Action.

*Fort Bend County, Texas v. Davis*, 139 S.Ct 1843  
(2019)

# Anti-Discrimination Laws

Ninth Circuit Withdraws Its 2018 Opinion and Upholds Probationary Release of Officer for On-Duty Calls and Texts to Paramour-Officer.

*Perez v. City of Roseville*, 926 F.3d 511 (9<sup>th</sup> Cir. 2019).

# Anti-Discrimination Laws

Employee Must Show an Adverse Employment Action Would Not Have Occurred But For a Disability.

*Murray v. Mayo Clinic* (2019) 2019 WL 3939627.

# Anti-Discrimination Laws

California Workplace Nondiscrimination Laws  
Amended to Protect Traits Historically  
Associated With Race, Including Hair Texture,  
Braids, Locks, and Twists.

Senate Bill No. 188 (amending California  
Government Code section 12926)

# Anti-Discrimination Laws

PERB Rules Employer Has No Obligation to Provide Union or Employee With Written Complaint Until After Initial Investigatory Interview.

*Contra Costa Community College District (2019)*  
PERB Decision No. 2652

# Anti-Discrimination Laws

Statements Made During Internal Investigation  
Were Protected Under Anti-SLAPP Statute,  
But University's Decision to Investigate Was  
Not.

*Laker v. Board of Trustees of California State  
University*, 32 Cal.App.5th 745 (2019).

# Anti-Discrimination Laws

California Supreme Court Holds That Anti-SLAPP Statute Can be Used to Screen Claims Alleging Discrimination and Retaliation.

*Wilson v. Cable News Network, Inc.*, 7 Cal.5th 871  
( 2019).



# Retaliation

Prosecutor Engaged in Protected Activity by  
Disclosing What He Reasonably Believed to  
Be Noncompliance With Laws Regarding  
Criminal Prosecutions

*Ross v. County of Riverside*, 36 Cal.App.5<sup>th</sup> 580  
(2019)

# Evaluating and Disciplining Employees

Sheriff's Sergeant Not Entitled to an Administrative Appeal For Release From Probationary Promotion.

*Conger v. County of Los Angeles, 36 Cal.App.5<sup>th</sup> 262 (2019).*

# Privacy and Personnel Issues

Law Enforcement Agencies May Disclose Particular “Brady List” Officers to Prosecutors Despite *Pitchess* Statutes.

*Association for Los Angeles Deputy Sheriffs v. Superior Court (Los Angeles County Sheriffs Department)*, No. S243855 (August 26, 2019).

# Privacy and Personnel Records

Certain Peace Officer Personnel Records  
Created Before 2019 Are Also Public Records  
Under New California Law.

*Walnut Creek Police Officers' Association v. City of  
Walnut Creek*, 33 Cal.App.5th 940 (2019).

# Labor Negotiations and the MMBA

County Violated MMBA by Removing  
Leadership Duties from Hospital Division  
Chief.

*Reese v. County of Santa Clara*, PERB Decision No.  
2629-M (2019).

# Labor Negotiations and the MMBA

Fire Protection District Violated MMBA When It Denied Represented Employees Longevity Differential.

*United Chief Officers Association v. Contra Costa County Fire Protection District*, PERB Decision No. 2632-M (2019). [Judicial Appeal Pending]

# Labor Negotiations and the MMBA

Court of Appeal Declines to Invalidate Initiative Placed on Ballot in Violation of MMBA.

*Boling v. Public Employment Relations Bd.*, 33  
Cal.App.5<sup>th</sup> 376 (2019).

# Labor Negotiations and the MMBA

PERB Holds that Its Jurisdiction Includes Claims Brought By Employee Organizations that Represent Police Officers and Deputy Sheriffs.

*Association of Orange County Deputy Sheriffs v. County of Orange*, PERB Decision No. 2675-M.



# Retirement

Employee Who Settles a Pending Termination for Cause and Agrees Not to Seek Reemployment Is Not Eligible for Disability Retirement.

*Martinez v. Public Employees' Retirement System,*  
33 Cal.App.5<sup>th</sup> 1156 (2019).

# Retirement

Interim Finance Manager Retained Through Regional Government Services Was an Employee Entitled to CalPERS Membership and Contributions.

*Fuller v. Cambria Community Services District,*  
PERS Case No. 2016-1277.

# Thank You!

## **Suzanne Solomon**

Partner | San Francisco Office

Phone: 415.512.3010 | [ssolomon@lcwlegal.com](mailto:ssolomon@lcwlegal.com)

[www.lcwlegal.com/our-people/suzanne-solomon](http://www.lcwlegal.com/our-people/suzanne-solomon)