

New Employment Laws 2022

Presented for the Contra Costa County Bar Association
Margaret J. Grover



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Settlement Agreements

May NOT Prohibit Disclosure About Unlawful Acts

- Applies to Severance and Settlement Agreements
- Covers Disclosure of Facts regarding Harassment, Discrimination, and Other Unlawful Conduct
- Test – Whether Employee has Reason to Believe Conduct is Unlawful
- Non-Disparagement Provisions *MUST* Include Caveat

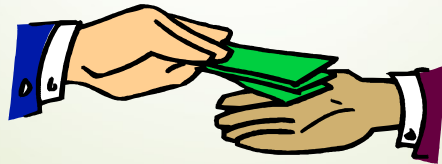


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Settlement Agreements

MUST Include

- Notice of Right to Consult an Attorney
- Reasonable Time to Sign, at least 5 Days
 - Employee May Shorten
 - May Not be Induced by Fraud or Misrepresentation
 - May not Threaten to Withdraw Offer Prior to Consideration
 - May not Provide Others Better Terms for Signing Earlier

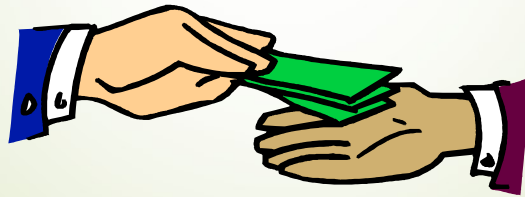


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Settlement Agreements

Limited Ability to Maintain Confidentiality

- Amount Paid May Remain Confidential
- Trade Secrets and Confidential Business Information Can Be Protected

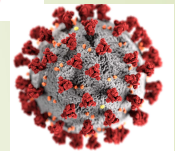
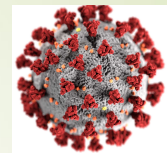


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Health and Safety

California Family Rights Act

- Applies to Employers with 5 or More Employees
 - Parents In-Law Now Family Members

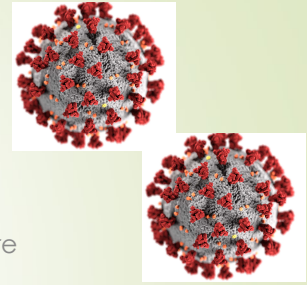


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Health and Safety

COVID Notice Requirements Clarified

- Employer **MUST** Give Notice To Worksite
 - Within 1 Business Day of Learning of Potential Exposure
 - In English and Language of Majority of Workers
 - Method Reasonably Anticipated to Be Received within 1 Business Day
 - Discuss Employer's Cleaning and Disinfection Plan
- Notice to Workers' Compensation Carrier
 - Any Positive Test in Workplace
 - May Become On-the-Job Illness
- Occupational Safety and Health Administration
 - If Death, Medical Treatment beyond First Aid, Days Off
 - Include on Log 300 Report



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Arbitration Agreements

Mandatory Pre-Dispute Arbitration Agreements I

- Prohibited by Labor Code Section 432.6, 1/1/2019
- Stayed by Federal District Court
- Reinstated by Ninth Circuit 9/15/2021
- Chamber of Commerce Has Requested *En Banc* Rehearing
- OPTIONS
 - Proceed with Mandatory Arbitration Agreements
 - Enter Voluntary Arbitration Agreements
 - Do Not Ask Employees to Arbitrate



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In Other News



Four Year Record Retention Requirement

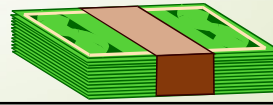
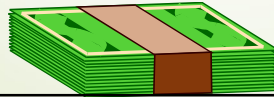
- Applies to Applications, Referral Records, Personnel Files, and Membership Records
- Be Careful to Define "Application"

Mandatory Retirement Savings Plan

- Covers Small Employers as of June 30, 2022
- Employer Must Provide
- Employees Must Be Enrolled Automatically, But May Opt Out
- Employer Does Not Have to Make Contributions

State and Local Minimum Wage Increases

Industry Specific Requirements



Cases Presented by ANJULI CARGAIN

- ***Ferra v. Loews Hollywood Hotel, LLC,***
11 Cal.5th 858 (2021)
- ***Johnson v. Maxim Healthcare Services, Inc.,***
66 Cal.App.5th 924 (2021)
- ***Wesson v. Staples the Office Superstore, LLC,***
68 Cal.App.5th 746 (2021)
- ***Gunther v. Alaska Airlines, Inc.,***
72 Cal.App.5th 334 (2021)
- ***Donohue v. AMN Services, LLC,***
11 Cal.5th 58 (2021)