



2026 ANNUAL CONFERENCE OAKLAND, JANUARY 11 - 13

AUXILIARY ORGANIZATIONS ASSOCIATION

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THE NEXT ERA OF AUXILIARIES  
SHAPING TOMORROW

# LEGAL UPDATE:

## CALIFORNIA EMPLOYMENT LAWS 2026 + CASE STUDIES



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# OUTLINE

## New Laws in 2026:

- **FEHA's Enforcement Procedures**
- **FEHA Regulations Re: AI**
- **Paid Family Leave Expansion**
- **The Workplace Know Your Rights Act**
- **Personnel Records and Inspections**
- **DLS Enforcement of Wage Judgments**
- **Revival of SOL on Sexual Assault Claims**
- **Pay Equity Laws**
- **Employee Gratuities**
- **Expanded Leave for Victims of Violence**
- **Case Studies and Nuclear Verdicts**



# REVISIONS TO FEHA'S ENFORCEMENT PROVISIONS

## SB 477

- Under existing law, individuals alleging FEHA violations must file a verified complaint with the CRD before initiating a civil action.
- The CRD investigates and may pursue conciliation or litigation on behalf of the complainant.
- During this period, the SOL for filing a civil lawsuit is tolled until the CRD issues a closure notice or files its own civil action.
- CRD must issue a right-to-sue notice within one year (for individuals) or two years (for group or class complaints) unless it files suit.
- Complainants have one year from the closure notice to file a civil action.
- FEHA authorizes the CRD to bring group or class complaints, but it has never expressly defined that term.



# REVISIONS TO FEHA'S ENFORCEMENT PROVISIONS

## SB 477

- **Defines "Group or Class Complaint"**
- SB 477 codifies a definition of "group or class complaint" to include any complaint alleging a pattern or practice of unlawful conduct
- **Tolling Statute of Limitations Period**
- The new law expands the circumstances under which statutory filing periods are tolled.
- Beginning January 1, 2026, tolling will apply: (1) during any appeal within the CRD following issuance of a closure notice, extending through one year *after* the CRD provides written notice the appeal has resolved; (2) during the pendency of any petition to compel CRD action; and (3) if a written tolling agreement between the complainant and CRD exists, provided the agreement is executed prior to the applicable deadline.



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# AMENDMENTS TO FEHA RE: AI



- Effective October 1, 2025, the CRD finalized amendments to FEHA regulations regarding the use of AI and automated-decision systems (ADS) in employment decisions.
- ADS is defined as a “computational process that makes a decision or facilitates human decision making regarding an employment benefit” that “may be derived from and/or use artificial intelligence, machine learning, algorithms, statistics, and/or other data.”
- Under the revised regulations, it is unlawful for an employer to use ADS in a manner that results in discrimination against applicants or employees.

# AMENDMENTS TO FEHA RE: AI



- Pursuant to the new AI Regulations, ADS can perform the following non-exhaustive list of tasks.
- (1) Conduct computer-based assessments or tests (such as puzzles or games) that make predictive assessments about an applicant/employee that measure skills, dexterity, reaction time, personality traits, aptitude, attitude, cultural fit, or screen or recommend an applicant or employee.
- (2) Direct job advertisements or other recruiting materials to targeted groups.
- (3) Screen resumes for particular terms or patterns.
- (4) Analyze facial expressions, word choice, and/or voice in online interviews.
- (5) Analyze employee or applicant data acquired from third parties.

# AMENDMENTS TO FEHA RE: AI



- However, employers remain liable for discriminatory outcomes even if the ADS is developed or administered by a third-party vendor that conducts recruiting, application screening, hiring, or other employment decisions on the employer's behalf.
- Applicants and employees must receive pre-use and post-use notices explaining when and how ADS tools are used, what rights they have to opt out, and how to appeal or request human review.
- Amended regulations also expand record-keeping obligations, requiring employers to retain ADS-related documents and data for at least four years.
- What are best practices and next steps regarding use of ADS?

# PAID FAMILY LEAVE EXPANSION

## SB 590

- California's Paid Family Leave (PFL) program currently provides up to 8 weeks of partial wage replacement for employees caring for ill family members, bonding with a new child, or handling a military-related exigency.
- Effective July 1, 2028—SB 590 expands PFL benefits to cover employees caring for a “designated person”—an individual related by blood or with a relationship equivalent of a family relationship.
- When an employee first requests benefits to care for a designated person, the employee must:
  - (1) identify the designated person; and
  - (2) attest under penalty of perjury either how they are related by blood or how the relationship is equivalent to a family relationship.



# WORKPLACE KNOW YOUR RIGHTS ACT

**SB 294**



- Requires employers to provide a standalone written notice to employees by February 2026, and on an annual basis thereafter, outlining specific constitutional, employment, and labor rights, including the right to notice of immigration-agency inspections and rights under the Fourth and Fifth Amendments.
- Covers rights like: wage and hour issues, workers' compensation, paid sick days, family leave, immigration-related rights, constitutional rights during law enforcement encounters at work, protection from retaliation for exercising rights, right to unionize, etc.
- Additionally, by March 30, 2026, employers must offer employees the option to designate an emergency contact and to specify whether that individual should be notified if the employee is arrested or detained.
- Civil penalties for non-compliance.

# PERSONNEL RECORDS

## SB 513

- Under Cal. Labor Code Sec. 1198.5, employers are required to make available for inspection all personnel records relating to performance or any grievance concerning the employee.
- SB 513 expands this requirement to include employees' education and training records.
- For purposes of the new law, "education or training records" include:
  - (1) The name of the employee
  - (2) The name of the training provider.
  - (3) The duration and date of the training.
  - (4) The core competencies of a training, including equipment/software skills.
  - (5) The resulting certification or qualification.



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# DLS ENFORCEMENT OF SB 261 WAGE JUDGMENTS

- California employers with unpaid wage judgments will be subject to significantly increased liability in 2026.
- Under existing law, Labor Code Sections 96 and 98 authorize the Labor Commissioner to adjudicate wage claims and issue legally enforceable orders when an employer fails to pay earned wages.
- Effective January 1, 2026, SB 261 authorizes the imposition of civil penalties of up to 3 times the amount of any unpaid judgment, including interest, if the final judgment remains unpaid 180 days after the appeal period expires.
- SB 261 also mandates that courts award reasonable attorneys' fees and costs to prevailing plaintiffs in enforcement actions, whether initiated by the employee, the Labor Commissioner, or a public prosecutor.
- Extends joint and several liability for these penalties to successor employers, ensuring that business reorganizations or sales cannot be used to avoid responsibility for unpaid wage judgments.



# Revival of Sexual Assault Claims

## AB 250

- AB 250 amends Code of Civil Procedure section 340.16 to revive certain claims to recover damages suffered as a result of a sexual assault that would otherwise be time-barred by the statute of limitations.
- Creates a two-year revival window (January 1, 2026 – December 31, 2027) for adult survivors of sexual assault.
- Under AB 250, a plaintiff may bring a revived sexual assault claim (if previously barred) by alleging that they were sexually assaulted, one or more entities are legally responsible for damages resulting from the assault, and an entity or its representative covered up or attempted concealment of a prior allegation of sexual assault.



# PAY EQUITY LAWS

## SB 642

- SB 642 amends Labor Code sections 432.3 and 1197.5 to enhance pay-equity and transparency requirements.
- Under existing law, employers are prohibited from discriminating against employees of an opposite sex by paying them less for substantially similar work.
- SB 642 replaces “opposite sex” with “another sex” to make the law inclusive of nonbinary individuals.
- Extends the statute of limitations for pay equity claims from two years to three years, and employees can now seek back pay for the entire period of time in which a violation occurred, up to a maximum of six years.
- When defining pay equity, the bill includes all forms of compensation under the term “wages,” such as salary, bonuses, stock options, and allowances for things like travel expenses.



# EMPLOYEE GRATUITIES

## SB 648

- SB 648 amends Labor Code section 351 to strengthen protections regarding tipped employees.
- It prohibits employers and agents from taking, collecting, or withholding gratuities.
- It grants the California Labor Commissioner new enforcement powers, including the ability to investigate tip theft, issue citations for violations, and file civil actions to recover withheld gratuities.
- Additionally, the bill requires that, if a patron pays a tip by a credit card, the full amount indicated as a tip must go to the employee, without deductions for credit card processing fees.
- Requires that tips be paid no later than the next regular pay date and requires employers to maintain records of all tips and make them available to the Division of Labor Standards Enforcement (DLSE) for inspection.



# VICTIMS OF VIOLENCE

## AB 406

- AB 406 specifies that the paid leave law expands to include as a covered reason for use reasons that previously existed only as unpaid leave under state law.
- Now, employees may use paid leave for:
  - Appearing in court as a witness to comply with an order or subpoena;
  - Serving on a jury.
  - If they or a family member is a victim of certain crimes and leave is to attend judicial proceedings related to the crime.
  - If the employee "suffers direct or threatened physical, psychological, or financial harm as a result of the commission or attempted commission of" vehicular manslaughter while intoxicated, felony child abuse likely to produce great bodily harm or death, assault resulting in the death of a child under 8 years old, felony domestic violence, felony physical elder or dependent adult abuse, felony stalking, solicitation for murder, a Penal Code Section 1192.7 "serious felony," hit-and-run causing death or injury, felony driving under the influence causing injury or sexual assault.



# VICTIMS OF VIOLENCE

## AB 406

- When we discuss leave rights and leave laws, we might assume we will know the reason(s) an employee wants/needs to take leave.
- But that isn't always going to be the case.
- Part of the problem is that employers do not:
  - (1) verify all of the reasons for a request leave or time off work; and/or
  - (2) confirm in writing the reasons for an employees approved (or denied) personal leave, medical leave, or paid sick leave
- Best practices dictate that these things are *always* done.



# Crunch v. Haute Dog Grooming

## Case Study



- Plaintiff is a dog groomer who worked at Haute Dog Grooming on 3 separate occasions for 17 total years.
- A few months into her third stint of employment, Plaintiff approached the salon leader about potentially resigning.
- Plaintiff shared she was going through "a difficult divorce," she needed to get her life in order, and her husband had been threatening her.
- The Assistant Store Leader spoke with Plaintiff via telephone and offered her a 30-day personal leave of absence in lieu of resignation.
- The ASL sent a vague internal email to LOA stating that the leave was due to "domestic issues."
- Haute Dog Grooming sent Plaintiff an email confirming a 30-day personal leave, which asked Plaintiff to notify the company if her leave was for medical reasons.

# Crunch v. Haute Dog Grooming

## Case Study



- Plaintiff accepted and unknown to the company, she checked into a rehabilitation center for alcohol and substance abuse.
- The 30-day leave ended and Plaintiff texted the salon leader to request a 2-week extension of her leave.
- The salon leader responded with a vague text message that stated: "That's fine, let me check with the ASL about work status."
- Haute Dog Grooming capped leave at 30 days, so the extension was denied.
- The ASL subsequently spoke to Plaintiff by telephone. The ASL claims Plaintiff could not provide a certain return to work date so she resigned instead of being terminated for job abandonment.
- The ASL did not send any confirming emails about her phone calls with Plaintiff.

# Crunch v. Haute Dog Grooming

## Case Study



- Plaintiff filed a lawsuit alleging **31 claims** against Haute Dog Grooming, the ASL, and the salon leader.
- Plaintiff now alleges:
- (1) she was a victim of domestic abuse;
- (2) she checked into the rehabilitation center to treat mental health disabilities related to her status as a victim of domestic violence;
- (3) she communicated her status as a domestic violence victim and her mental health disabilities to the ASL during their phone conversations.
- She alleges claims for disability discrimination, failure to engage/accommodate, retaliation, wage and hour claims, dog bite claims...***all of the claims!***
- Litigation has been ongoing for **two years**.
- This case is defensible, but...

# Crunch v. Haute Dog Grooming

## Case Study



- ...this case would likely not exist if:
- (1) the salon leader or ASL determined **and confirmed in writing** ***all*** reasons for the personal leave;
- (2) determined **and confirmed in writing** the Plaintiff did not request or require a medical leave of absence;
- (3) **confirmed in writing** the substance of all telephone conversations and requested the Plaintiff confirm the accuracy of those emails.
- Because this documentation does not exist, it creates uncertainty that Plaintiff can take advantage of.
- Sometimes plaintiffs are...



# NUCLEAR VERDICTS

- California: land of Hollywood, high-tech, empty ocean roads, these days—eye-popping jury verdicts.
- Employment litigation in California now rivals the state lottery as a source of multimillion-dollar payouts.
- Recent cases have led to single-plaintiff jury awards exceeding \$10 million (so-called “nuclear” verdicts) and even the occasional “thermonuclear” verdict in excess of \$100 million.
- Even though such judgments are often trimmed on appeal, the message is clear: California juries are willing to flex, and neither Sacramento nor the courts have any intention of standing in the way.



# NUCLEAR VERDICTS

*Valla v. Dignity Health (2025)*

- A chief nursing officer claimed she had been called to assist in an emergency at the hospital's parking structure after a woman jumped from the eighth floor and died.
- The nurse later learned that a man also had jumped to his death from the same structure six years before.
- After the incident, the nurse "advocated for stronger safety measures" (including installing a physical barrier), but she was met with "unusually strong resistance from her superiors."
- Trial testimony showed the nurse also reported multiple other patient safety issues and that hospital leadership refused to replace equipment due to budget concerns.



# NUCLEAR VERDICTS

*Valla v. Dignity Health (2025)*

- The nurse took a medical leave of absence from the hospital after suffering severe psychological problems in part related to treating the suicide victim and also from the stress of “nothing being done to make the structure safer.”
- While on leave, the nurse claimed the hospital replaced her and informed her that the position was no longer available upon her return from medical leave.
- The nurse was hired in 2018 and went on leave in mid-2019.
- What did the jury do?
- Awarded the nurse:
- \$5 million in economic damages (past and future lost wages and benefits)
- \$22.5 million for pain and suffering and emotional distress damages



# NUCLEAR VERDICTS

*Roque v. Octapharma Plasma, Inc. (2024)*

- A 74-year-old plaintiff alleged that her employer failed to accommodate her back pain when it refused to provide her a chair to sit in while she conducted medical screenings and when it later terminated her based on her age.
- There was a complete absence of any economic damages for lost wages or benefits at trial.
- Still, the jury returned a \$11.2 million verdict for the plaintiff, including:
- \$1.05 million for physical pain and suffering
- \$1.155 million for emotional distress (despite no treatment)
- \$9 million in punitive damages.
- And don't forget, presumably, a large attorney's fees award in favor of the plaintiff followed shortly.



# NUCLEAR VERDICTS

*Slagel v. Liberty Mutual Insurance, Co. (2025)*

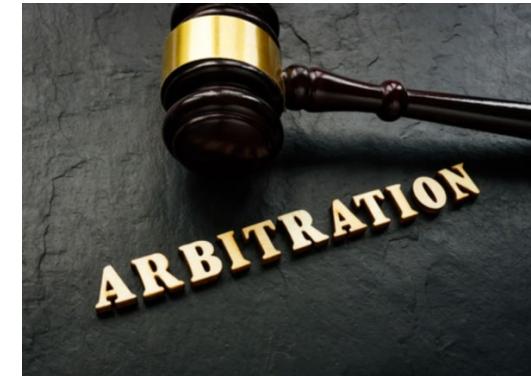
- Plaintiff alleged she was terminated shortly after taking a short-term leave to manage high blood pressure, which she claims had worsened because of a hostile work environment.
- Plaintiff was a 31-year employee, and she took short-term disability leave from April 2016 to June 2016.
- Liberty Mutual picked up her company laptop while she was on leave, without an explanation.
- Upon her return to work, her parking card and badge did not work. She was called into a conference room, where she was allegedly fired without reason.
- What did the jury do?
- \$20 million for past and future emotional distress.
- \$83 million for punitive damages.



# NUCLEAR VERDICTS

## How to Avoid Them?

- Some nuclear verdicts are reduced on appeal—especially excessive punitive damages awards.
- But appeals cost money, take time, and are uncertain.
- So how can employers prevent nuclear verdicts?
- Besides compliance and best practices, the best way to head off nuclear verdicts is **ARBITRATION!**
- A lot of California employers continue to ignore the risks and are willing to roll the dice with a jury.
- Enforceable arbitration agreements continue to be the only antidote available for employers to protect themselves from catastrophic verdicts such as these, which have become alarmingly commonplace in the trial courts of California.



# NUCLEAR VERDICTS

## How to Avoid Them?



- Jurors are mostly employees.
- Jurors tend to sympathize with employees over employers.
- Arbitrators, especially retired judges, are much more likely to be neutral fact finders.
- Punitive damages awards are less likely in arbitration. Even if punitive damages are granted, they tend to be significantly smaller in arbitration.
- With well-draft arbitration agreements, you can reasonably limit the amount of discovery and depositions, which keeps attorneys' fees down.



THANK  
YOU!



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# QUESTIONS?

