BENJY LAW CORPORATION

FOR CALIFORNIA EMPLOYEES

A PLAIN-ENGLISH FIELD GUIDE

War Stories *from the* Workplace

Real court cases, told in plain English: what employees did right, what they did wrong, and what you can do today to protect your job, your pay, and your rights in California.

65	12	49
REAL CASES	LESSONS	QUESTIONS ANSWERED

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START HERE

How to use this guide

Most people learn employment law the hard way: after something has already gone wrong. This guide lets you learn it from other people's cases instead. Every war story in it is a real, published court decision. Some employees won. Some lost because of one avoidable mistake. Both kinds teach.

You do not need to read it front to back. Each part stands on its own. If you have a problem right now, go to the part that fits it, read the war stories, and then read the Take-Away at the end of that part.

WAR STORY
A real court decision in plain words: what happened, what the court decided, and what to do and not do.

LESSON
A rule of the road, pulled out of the cases, that applies to almost everyone.

FAQ
Short answers to the questions California employees actually ask.

TAKE-AWAY
The end-of-part summary. If you read nothing else, read these.

A word about the stories. Each story is a short summary of a court's published opinion. The facts are the facts as the court described them, often at an early stage of the case, before anything was proved at trial. A decision states a legal rule. It does not predict how your situation will turn out, because small differences in facts can change the result. Case names and citations appear with each story and in the index at the back, so you or your lawyer can look them up.

A word about deadlines. Many employment rights expire if you wait too long. Some deadlines are measured in days or months, not years. The deadline chart near the back lists the most common ones. If something has happened to you, do not let this guide be the reason you wait.

This guide is general information about California law as of November 2026. It is not legal advice, and reading it does not create an attorney-client relationship with Benjy Law Corporation. Laws, dollar amounts, and deadlines change. For advice about your own situation, talk to a lawyer. Prior results do not guarantee a similar outcome.

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I

PART I

The ground rules

Start with the rule nobody likes. In California, most jobs are "at will." Your employer can let you go at any time, for a good reason, a bad reason, or no reason.

But not for an *illegal* reason. Nearly everything else in this guide is about that one exception, and about how employees prove it or lose it.

WAR STORIES IN THIS PART

01 Twenty years of good reviews were not a promise

02 The offer letter said "at any time"

03 He moved his family across the country on a lie

WAR STORY 01

AT-WILL EMPLOYMENT

Twenty years of good reviews were not a promise

Guz v. Bechtel National, Inc. (2000) 24 Cal.4th 317 · California Supreme Court

WHAT HAPPENED

A longtime employee with steady raises, promotions, and good reviews lost his job when the company eliminated his work unit. He argued that his long, successful service created an unwritten promise that he would be let go only for good cause.

WHAT THE COURT DECIDED

The California Supreme Court disagreed. Long service, raises, and praise are their own rewards. By themselves they do not turn an at-will job into a guaranteed one. What can matter is the employer's own written policies: the court sent the case back on whether the company broke its own written layoff procedures.

DO

Keep copies of the handbook and written policies. An employer's failure to follow its own written procedure can be evidence that survives.

DON'T

Don't assume seniority or good reviews mean the company needs a reason to let you go.

WAR STORY 02

AT-WILL EMPLOYMENT

The offer letter said "at any time"

Dore v. Arnold Worldwide, Inc. (2006) 39 Cal.4th 384 · California Supreme Court

WHAT HAPPENED

An employee signed an offer letter stating that his employment was at will and could be ended "at any time." After he was let go, he said he had been told things that led him to believe he would be fired only for good cause.

WHAT THE COURT DECIDED

The signed letter controlled. "At any time" ordinarily means with or without cause. Spoken assurances could not change a clear written term he had signed.

DO

Read the offer letter before you sign. If you were promised job security, a guaranteed term, or a bonus, ask for it in writing.

DON'T

Don't rely on what the recruiter or your future boss said out loud if the paper says something different.

He moved his family across the country on a lie

Lazar v. Superior Court (1996) 12 Cal.4th 631 · California Supreme Court

WHAT HAPPENED

A man with a secure job on the East Coast was recruited to Los Angeles. According to his complaint, the company promised him job security and pay increases that it knew were false, to get him to resign and move his family. Two years later he was let go.

WHAT THE COURT DECIDED

He could sue for fraud. An employer that knowingly makes false promises to lure someone into a job can be liable for the harm, including the cost of moving and the loss of the secure job left behind.

DO

Save recruiting emails, texts, and the offer letter. If you relocated for the job, keep the moving records too.

DON'T

Don't delete the recruiting thread once you are hired. It may be the only proof of what you were promised.

Also: Lab. Code §§ 970 and 972 allow double damages when knowingly false statements persuade a worker to relocate.

~~MYTH~~	REALITY
California is at-will, so they can fire me for any reason at all.	Any *lawful* reason. Not because of your race, sex, age, disability, religion, or another protected trait; not for reporting illegal conduct; not for taking protected leave; not for complaining about unpaid wages.
~~MYTH~~	REALITY
They have to give me a reason and a warning first.	No law requires a reason, a warning, or severance. But a reason that turns out to be false is often the best evidence an employee has.
~~MYTH~~	REALITY
My boss is unfair and rude. That is illegal.	Unfairness alone is not. The law steps in when the mistreatment is tied to a protected trait or to something the law protects you for doing.
~~MYTH~~	REALITY
I was told my job was safe, so they need good cause.	Not if you signed an at-will term. Spoken assurances rarely beat a signed document (*Dore*).

LESSON

Three questions that sort almost every case

When something goes wrong at work, lawyers ask three things. You can ask them too.

- → **Who are you?** Is the treatment tied to a protected trait such as age, race, sex, pregnancy, disability, religion, or national origin?
- → **What did you do?** Did it follow a complaint, a report of illegal conduct, a leave request, an accommodation request, or a wage claim?
- → **What does the paper say?** Is there a contract, a written policy, or a law the employer did not follow?

Sources: Lab. Code § 2922 (at-will presumption); Gov. Code § 12940; CACI Nos. 2400, 2430.

FAQ The basics

Q Can I be fired for no reason in California?

Generally yes. Employment is presumed to be at will. But you cannot be fired for an illegal reason, such as discrimination, retaliation, or refusing to break the law.

Lab. Code § 2922; *Guz v. Bechtel National, Inc.* (2000) 24 Cal.4th 317; CACI No. 2400.

Q Does my employer have to follow its own handbook?

Not always, and many handbooks say they are not contracts. But written policies matter. In *Guz*, the surviving question was whether the employer broke its own written layoff rules.

Guz, 24 Cal.4th 317.

Q My employer lied to get me to take the job. Is that illegal?

It can be. Knowingly false promises made to get you to accept a job, especially to relocate, can support a fraud claim.

Lazar v. Superior Court (1996) 12 Cal.4th 631; Lab. Code §§ 970, 972.

TAKE-AWAY

The ground rules

1. **At-will is the starting point, not the end.** The question is never "was it fair?" It is "was the reason illegal?"
2. **Paper beats memory.** Signed terms control. Get promises in writing, and keep what you were given.
3. **A false reason is evidence.** Write down the reason you were given, who gave it, and when.

II

PART II

Getting hired

Your rights start before your first day. California limits what an employer can ask and when it can ask it.

Your risks start before your first day too. What you write on an application will be read again, line by line, if you ever end up in a dispute.

WAR STORIES IN THIS PART

04 “There’s no opening.” There was.

05 He skipped the roll call

06 The headscarf nobody asked about

07 The borrowed Social Security number

08 The box they didn’t check

WAR STORY 04

PREGNANCY

“There’s no opening.” There was.

Abed v. Western Dental Services, Inc. (2018) 23 Cal.App.5th 726 · California Court of Appeal

WHAT HAPPENED

A dental-assistant extern hoped to be hired at the office where she trained. A supervisor saw prenatal vitamins in her purse and guessed she was pregnant. According to the extern’s evidence, she was then told no position was open, although one was posted on the company’s website. She did not apply.

WHAT THE COURT DECIDED

Her case could go forward even though she never applied. If an employer falsely tells someone no job is open, for a discriminatory reason, it cannot defend itself by pointing out that she did not apply. Whether that is what happened was for a jury to decide.

DO

Write down who told you there was no opening, and when. Then check whether the job was posted or filled.

DON’T

Don’t take “we’re not hiring” as the end of it if the timing looks wrong.

WAR STORY 05

APPLYING

He skipped the roll call

Stiefel v. Bechtel Corp. (2010) 624 F.3d 1240 · U.S. Court of Appeals, Ninth Circuit

WHAT HAPPENED

A laid-off union ironworker claimed his former employer refused to rehire him. But workers were rehired through roll calls at the union hall. He waited months to put his name on the list and then missed many roll calls, so the union never referred him.

WHAT THE COURT DECIDED

That part of his case failed. A person who claims he was not hired ordinarily must take the steps that give the employer a chance to hire him. The exception is narrow: real evidence that applying would have been pointless.

DO

Apply, show up, or put your name in, even when you expect a no. Keep proof that you did.

DON’T

Don’t skip the process and expect to prove later that you would have been rejected.

WAR STORY 06

RELIGION

The headscarf nobody asked about

EEOC v. Abercrombie & Fitch Stores, Inc. (2015) 575 U.S. 768 · U.S. Supreme Court

WHAT HAPPENED

An applicant wore a headscarf to her interview at a clothing store. She scored well enough to be hired. The store's dress policy banned "caps," and a district manager, assuming she wore the scarf for religious reasons, directed that she not be hired. Religion never came up in the interview.

WHAT THE COURT DECIDED

The store could be liable. An applicant does not have to prove the employer knew for certain that she needed a religious accommodation. It is enough that avoiding the accommodation was a motive for the decision.

DO

If you need a religious accommodation in dress, grooming, or scheduling, you may ask for one. Employers must accommodate unless it causes real hardship.

DON'T

Don't assume silence waives your rights. An employer cannot avoid the law by not asking.

WAR STORY 07

HONEST APPLICATIONS

The borrowed Social Security number

Salas v. Sierra Chemical Co. (2014) 59 Cal.4th 407 · California Supreme Court

WHAT HAPPENED

A seasonal worker hurt his back on the job and filed a workers' compensation claim. When the next season came, he was not brought back. He sued, saying the company failed to accommodate his injury and refused to rehire him because of his claim. During the lawsuit the company learned he had used someone else's Social Security number to get hired, and argued that this alone should end his case.

WHAT THE COURT DECIDED

The California Supreme Court said no. Misconduct the employer discovers later is not a complete defense to a discrimination claim. It can cut off lost wages from the date of discovery. The court also pointed to the worker's evidence that a manager had told employees not to worry about mismatched numbers. If true, that could change the result.

DO

Tell the truth on applications and onboarding forms. If something in your history is complicated, explain it honestly.

DON'T

Don't assume a false statement will stay buried. In a lawsuit, employers go back and check everything.

The box they didn't check

Camp v. Jeffer, Mangels, Butler & Marmaro (1995) 35 Cal.App.4th 620 · California Court of Appeal

WHAT HAPPENED

Employees of a law firm sued over the loss of their jobs. During the case the firm learned that they had prior felony convictions they had not disclosed when the job application asked about them.

WHAT THE COURT DECIDED

Their wrongful-termination claims were thrown out. Where an employee gets a job by hiding something that legally disqualified them from it, the court said, the employee has no claim for losing that job. Courts treat this as a narrow exception.

DO

Know the current rules: most California employers may not ask about convictions until after a conditional job offer.

DON'T

Don't answer a direct question falsely. If a question seems improper, "I'd like to discuss that" is safer than a false "no."

Note: *Camp* predates *Salas* (2014), which holds this kind of evidence is not a complete defense to a discrimination claim.

LESSON

What an employer may not ask, and when

- → **Criminal history:** not before a conditional job offer, at employers with five or more employees. Then the employer must weigh it individually, tell you in writing, and give you a chance to respond. Arrests that did not lead to conviction, and sealed or dismissed convictions, are off limits.
- → **Past pay:** an employer may not ask for your salary history. On request it must give you the pay scale for the job.
- → **Medical questions and exams:** not before a job offer. After an offer, only if job-related and required of everyone entering that job.
- → **Social media:** an employer may not demand your personal usernames or passwords.
- → **Credit reports:** only for certain kinds of jobs, and only with written notice.

Sources: Gov. Code §§ 12952, 12940(e)–(f); Lab. Code §§ 432.3, 432.7, 980, 1024.5; Civ. Code § 1785.20.5.

FAQ Hiring

Q Can an employer ask about my criminal record on a job application?

At most California employers, not until after a conditional offer. Even then it must make an individual assessment, notify you in writing, and let you respond before a final decision.

Gov. Code § 12952; Lab. Code § 432.7.

Q Do I have to tell them what I made at my last job?

No. Employers may not ask for salary history or rely on it to set your pay. You may share it voluntarily. Employers with 15 or more employees must put the pay scale in job postings.

Lab. Code § 432.3.

Q Can a computer program reject my application?

Using software to screen applicants is not illegal by itself, but California's discrimination rules apply to decisions made with automated tools the same as to decisions made by people.

Gov. Code § 12940; 2 Cal. Code Regs. § 11008 et seq.

Q I stretched the truth on my resume years ago. Does that destroy my case?

Usually not. The employer must prove it would have fired you for that alone, as a matter of settled policy. If it does, lost pay typically stops on the date it found out. But it is a real problem. Tell your lawyer at the start.

Salas v. Sierra Chemical Co. (2014) 59 Cal.4th 407; CACI No. 2506.

TAKE-AWAY

Getting hired

1. **Apply anyway.** It is much harder to prove you were rejected for a job you never asked for.
2. **Tell the truth.** A false answer on an application can follow you for the life of the job and into court.
3. **Know what they cannot ask.** Conviction history before an offer, salary history, medical questions, and social media passwords are off the table.
4. **Save the paper trail.** Job posting, application, offer letter, and every recruiting message.

III

PART III

Getting paid

Wage law is where small numbers become big ones. A few unpaid minutes a day, a missed break, a deduction nobody explained: across months and coworkers, they add up.

California's wage rules are among the strongest in the country. Most of them cannot be signed away. Here is how they play out in real cases.

WAR STORIES IN THIS PART

09 Twelve hours and fifty minutes

10 A break with a radio on your hip is not a break

11 Twenty-four hours in the trailer

12 Sixty hours a week, paid by the hour, called "exempt"

13 The label does not decide it

14 The final check that came to zero

15 Everyone paid for returns nobody could trace

16 Two hundred signatures

WAR STORY 09

OFF-THE-CLOCK WORK

Twelve hours and fifty minutes

Troester v. Starbucks Corp. (2018) 5 Cal.5th 829 · California Supreme Court

WHAT HAPPENED

A shift supervisor had to clock out and then finish closing the store: sending the day's data, setting the alarm, locking up. It took a few minutes a shift. Over 17 months it added up to 12 hours and 50 minutes, worth $102.67.

WHAT THE COURT DECIDED

California requires pay for all hours worked. The federal rule that excuses very small amounts of time does not excuse regular, required off-the-clock minutes here.

DO

Write down the small stuff: opening and closing tasks, log-in time, required waits. Note the date and minutes.

DON'T

Don't assume a few minutes a day is not worth raising. It is your pay.

WAR STORY 10

REST BREAKS

A break with a radio on your hip is not a break

Augustus v. ABM Security Services, Inc. (2016) 2 Cal.5th 257 · California Supreme Court

WHAT HAPPENED

Security guards were required to keep their radios and pagers on during rest breaks and to respond if something came up.

WHAT THE COURT DECIDED

On-call rest breaks are not lawful rest breaks. During a rest break the employer must relieve you of all duties and give up control over how you spend the time. The trial court had awarded the guards about $90 million. An appeals court threw that out, and the Supreme Court reversed the appeals court. The guards did not have to prove that any particular break was interrupted. The policy was the violation.

DO

If you are told to stay reachable, answer calls, or watch the floor on your break, write down the rule and who gave it.

DON'T

Don't sign timesheets saying you took breaks you did not get.

Note: a later law lets some unionized security officers be kept on call during rest breaks (Lab. Code § 226.7(f)). That exception is set to expire January 1, 2027.

WAR STORY 11

ON-CALL TIME

Twenty-four hours in the trailer

Mendiola v. CPS Security Solutions, Inc. (2015) 60 Cal.4th 833 · California Supreme Court

WHAT HAPPENED

Guards at construction sites patrolled by day and stayed on call at night in trailers the employer provided. On weekends that meant 24 hours on site. On call, they could not leave unless a relief guard came, and even then had to stay within 30 minutes. No children, pets, or alcohol were allowed in the trailer. The employer paid for on-call time only when a guard had to respond to an alarm or other problem.

WHAT THE COURT DECIDED

All of the on-call hours counted as hours worked and had to be paid. The more the employer controls where you are and what you can do, the more likely the time is work.

DO

Ask: can I really use this time for myself? If the answer is no, track it.

DON'T

Don't accept "you're only on call" when you cannot leave or live normally.

WAR STORY 12

OVERTIME

Sixty hours a week, paid by the hour, called "exempt"

Negri v. Koning & Associates (2013) 216 Cal.App.4th 392 · California Court of Appeal

WHAT HAPPENED

An insurance claims adjuster was paid $29 an hour and regularly worked about 60 hours a week. His employer treated him as an exempt employee and paid no overtime.

WHAT THE COURT DECIDED

He was not exempt. To be exempt from overtime, an employee must be paid a true salary: a fixed amount that does not go up and down with hours worked. Hourly pay, however high, fails the test.

DO

Check both halves of the test: a real salary of at least twice the minimum wage for full-time work, *and* more than half your time spent on exempt duties.

DON'T

Don't assume you are exempt because of your title, your pay, or the word "salaried" on a form.

WAR STORY 13 INDEPENDENT CONTRACTORS

The label does not decide it

Dynamex Operations West, Inc. v. Superior Court (2018) 4 Cal.5th 903 · California Supreme Court

WHAT HAPPENED

A delivery company reclassified its drivers from employees to independent contractors. The drivers said they kept doing the same deliveries for the same company, and sued for the wage protections employees get.

WHAT THE COURT DECIDED

The Supreme Court adopted the "ABC test." A worker is an employee unless the company proves all three: (A) the worker is free from its control, (B) the work is outside the usual course of its business, and (C) the worker runs an independent business of the same kind. The court's example: a plumber fixing a store's leak is a contractor. A seamstress sewing a clothing maker's dresses at home is an employee.

DO

Look at the reality, not the paperwork. Who sets your schedule, your rate, your customers?

DON'T

Don't assume a signed "contractor agreement" or a 1099 settles your status.

Now: the ABC test is written into Lab. Code § 2775, with a number of statutory exceptions.

WAR STORY 14 DEDUCTIONS

The final check that came to zero

Barnhill v. Robert Saunders & Co. (1981) 125 Cal.App.3d 1 · California Court of Appeal

WHAT HAPPENED

An employee owed the employer money on a promissory note. At termination, the employer declared the whole balance due and took it out of the final paycheck, leaving nothing.

WHAT THE COURT DECIDED

That was unlawful. Wages get special protection. An employer that is owed money must collect it the way any other creditor does. It cannot simply help itself to the last paycheck.

DO

Compare your final check to what you were owed. Object in writing to any deduction you did not authorize.

DON'T

Don't accept "loan balance," "advance recovery," or "equipment" lines that wipe out your final pay.

WAR STORY 15

COMMISSIONS

Everyone paid for returns nobody could trace

Hudgins v. Neiman Marcus Group, Inc. (1995) 34 Cal.App.4th 1109 · California Court of Appeal

WHAT HAPPENED

When returned merchandise could not be traced to the salesperson who sold it, a department store deducted a share of those "unidentified returns" from the commissions of every salesperson in the department.

WHAT THE COURT DECIDED

The practice violated the Labor Code. It made careful employees absorb a business cost, and other people's mistakes, out of wages they had already earned.

DO

Keep every version of your commission plan, and read your statements for pooled chargebacks.

DON'T

Don't count a commission as earned until every written condition in the plan is met. Plans can lawfully set conditions if they are clear and agreed to in advance.

WAR STORY 16

WAGE RELEASES

Two hundred signatures

Chindarah v. Pick Up Stix, Inc. (2009) 171 Cal.App.4th 796 · California Court of Appeal

WHAT HAPPENED

While a wage class action was pending, a restaurant company went directly to its employees and offered money in exchange for signed releases of their overtime claims. More than 200 signed.

WHAT THE COURT DECIDED

The releases held. An employer cannot make you sign a release to get wages it admits it owes. But where there is a real dispute about whether anything is owed, an employee can settle and release that claim.

DO

Before you sign anything that mentions a "release" or "settlement" of wages, find out whether a larger case is pending and get advice.

DON'T

Don't trade a claim you do not understand for a quick check.

LESSON

Six pay rules to know by heart

- → **Overtime:** time and a half after 8 hours in a day or 40 in a week; double time after 12 in a day.
- → **Meal breaks:** 30 minutes, off duty, before the end of your fifth hour. A second one on shifts over 10 hours.
- → **Rest breaks:** 10 paid minutes for every four hours or major part of four hours.
- → **Missed breaks:** one extra hour of pay for each day a meal break was not provided, and one for rest breaks.
- → **Expenses:** your employer must reimburse necessary work expenses, including a reasonable share of a personal cell phone it requires you to use.
- → **Final pay:** everything, including unused vacation, is due the day you are fired, or within 72 hours if you quit without notice.

Sources: Lab. Code §§ 201, 202, 226.7, 227.3, 510, 512, 2802; Wage Orders ¶ 12; *Cochran v. Schwan's Home Service, Inc.* (2014) 228 Cal.App.4th 1137.

FAQ Pay

Q I'm on salary. Does that mean no overtime?

Not by itself. The employer must prove both a qualifying salary and that more than half your actual work time is spent on exempt duties. If it cannot, you are owed overtime on top of your salary.

Lab. Code § 515; *Negri v. Koning & Associates* (2013) 216 Cal.App.4th 392.

Q Can my employer take money out of my paycheck?

Only for things the law requires, things you authorized in writing for your own benefit, or union-agreement items. Cash shortages, breakage, and ordinary mistakes are the employer's cost of doing business.

Lab. Code §§ 221, 224.

Q Can they hold my last check until I return my laptop or sign something?

No. Final pay is unconditional. A release demanded in exchange for wages the employer admits it owes is void.

Lab. Code §§ 201–203, 206.5.

Q I have no record of my hours. Do I still have a claim?

Possibly. Keeping time records is the employer's job. If it did not, a reasonable estimate from you can be enough, and the employer then has to disprove it.

Hernandez v. Mendoza (1988) 199 Cal.App.3d 721; CACI No. 2703.

Q Does my employer have to pay out unused vacation?

Yes. Earned vacation and PTO are wages and must be paid at your final rate when the job ends. A policy cannot make you forfeit vacation you have already earned. Sick leave is different and usually is not paid out.

Lab. Code §§ 227.3, 246.

Q Can I be punished for talking about my pay with coworkers?

No. You may discuss your own wages, and a rule requiring pay secrecy is unlawful.

Lab. Code § 232; *Grant-Burton v. Covenant Care, Inc.* (2002) 99 Cal.App.4th 1361.

TAKE-AWAY

Getting paid

1. **Track your own time.** Start, stop, meals, and the minutes before and after the clock.
2. **Labels do not decide.** "Exempt," "salaried," and "contractor" are conclusions the employer has to prove.
3. **A real break is off duty.** If you are on call, it generally does not count.
4. **Your last check is unconditional.** No release, no returned laptop, no loan balance stands between you and wages owed.
5. **Read before you sign a wage release.** A small check today can close a larger claim for good.

IV

PART IV

Treated differently

Almost no one is told, “We are firing you because of your age.” Discrimination cases are built from smaller things: a comment, a pattern, a reason that does not add up.

The employees who win are usually the ones who noticed those things and wrote them down when they happened.

WAR STORIES IN THIS PART

17 “Fuddy-duddy”

18 He needed to be home for his son’s dialysis

19 She complained. They fired her fiancé.

WAR STORY 17

AGE

“Fuddy-duddy”

Reid v. Google, Inc. (2010) 50 Cal.4th 512 · California Supreme Court

WHAT HAPPENED

A 52-year-old engineering executive was hired and received a favorable review. According to his evidence, a supervisor and coworkers made remarks about him: that he was “slow,” “sluggish,” an “old man,” an “old fuddy-duddy,” and that his ideas were “obsolete” and “too old to matter.” He was later let go. The employer argued these were just stray remarks by people who did not make the decision.

WHAT THE COURT DECIDED

California does not ignore “stray remarks.” The California Supreme Court held that offhand age-related comments, even by non-decision-makers, must be weighed with all the other evidence. Taken together they can show a discriminatory motive.

DO

Write down biased comments the day you hear them: the exact words, who said them, who else heard.

DON’T

Don’t dismiss a comment because it was a “joke” or the speaker was not your boss.

WAR STORY 18

CAREGIVERS

He needed to be home for his son’s dialysis

Castro-Ramirez v. Dependable Highway Express, Inc. (2016) 2 Cal.App.5th 1028 · California Court of Appeal

WHAT HAPPENED

For years a truck driver’s supervisors scheduled him so he could get home in time to give his disabled son daily dialysis. A new supervisor changed his schedule, then fired him when he refused a late shift that would have kept him from doing it.

WHAT THE COURT DECIDED

His case could go to a jury. California law protects employees from discrimination based on their association with a person who has a disability. If the son’s disability was a substantial motivating reason for the firing, the employer could be liable.

DO

Tell your employer in writing why you need a particular schedule, and keep the reply.

DON’T

Don’t assume the law only protects your own medical condition. It can protect you for a family member’s.

She complained. They fired her fiancé.

Thompson v. North American Stainless, LP (2011) 562 U.S. 170 · U.S. Supreme Court

WHAT HAPPENED

Two employees at the same company were engaged. She filed a sex-discrimination charge with the federal government. Three weeks after the company was told about it, the company fired him.

WHAT THE COURT DECIDED

He could sue. The U.S. Supreme Court held that, under federal law, punishing an employee who complained by firing someone close to her can be unlawful retaliation. If his account was true, he was not a bystander. He was the target, and he had the right to bring the case.

DO

If a spouse, partner, or relative at the same company is punished after your complaint, tell your lawyer. It may be part of your case.

DON'T

Don't assume retaliation only counts when it is aimed at the person who complained.

LESSON

How discrimination is usually proved

There is rarely a confession. A jury looks at the whole picture. These are the pieces lawyers look for first.

- → **Timing.** What happened shortly before the decision? A complaint, a diagnosis, a pregnancy announcement, a birthday?
- → **Comments.** Remarks about age, accent, pregnancy, religion, or health, by anyone with influence.
- → **Comparisons.** Was someone outside your group treated better for the same conduct?
- → **Shifting reasons.** Did the explanation change between the meeting, the letter, and the unemployment response?
- → **Broken rules.** Did the employer skip its own written steps?

Sources: Gov. Code §§ 12923(c), 12940(a); *Reid v. Google*; CACI Nos. 2500, 2507.

~~MYTH~~

I have to prove discrimination was the only reason.

REALITY

No. It must be a *substantial motivating reason*. It does not have to be the only one.

~~MYTH~~	REALITY
The person who fired me never said anything biased, so I have no case.	If a biased supervisor fed the decision-maker the information, the employer can still be liable.
~~MYTH~~	REALITY
If I lose, I will have to pay my employer's lawyers.	Under California's discrimination law, only if the case was frivolous, unreasonable, or groundless.

FAQ Discrimination

Q How many employees must my employer have for the law to apply?

California's discrimination law generally covers employers with five or more employees. Harassment protections apply even if there is only one.

Gov. Code §§ 12926(d), 12940(j)(4)(A).

Q Can I sue my boss personally?

For harassment, yes: the harasser can be personally liable. For discrimination or retaliation, generally no; those claims are against the employer.

Gov. Code § 12940(j)(3); *Reno v. Baird* (1998) 18 Cal.4th 640; *Jones v. The Lodge at Torrey Pines Partnership* (2008) 42 Cal.4th 1158.

Q Am I entitled to know the pay range for my own job?

Yes. On request, your employer must give you the pay scale for your current position.

Lab. Code § 432.3.

TAKE-AWAY

Treated differently

1. **Small comments are evidence.** Record them when they happen. California does not wave them away.
2. **Look for the comparison.** Who was treated better, and what is different about them?
3. **The law reaches family ties.** Caring for a disabled relative, or being related to someone who complained, can be protected.

V

PART V

When work turns hostile

Harassment law is not a civility code. It does not reach every rude remark. But it reaches much more than people expect: conduct that is not sexual, conduct that happens online, and conduct you never saw directly.

One theme runs through every story here. What you do after it happens, and what your employer does after you report it, often decides the case.

WAR STORIES IN THIS PART

20 Twenty-five years, then the cold shoulder

21 The photo went around the department

22 A coworker's Instagram page

23 The warden's favorites

24 The writers' room

WAR STORY 20

DISABILITY HARASSMENT

Twenty-five years, then the cold shoulder

Roby v. McKesson Corp. (2009) 47 Cal.4th 686 · California Supreme Court

WHAT HAPPENED

A 25-year customer-service employee developed panic attacks that caused absences. Her supervisor made demeaning comments about her in front of coworkers, reprimanded her publicly, ignored her greetings and her questions, shut her out at staff meetings, and handed out small gifts to everyone but her. She was then fired under the attendance policy.

WHAT THE COURT DECIDED

A jury found for her. The California Supreme Court held that the same acts can support both a discrimination claim and a harassment claim, and upheld liability against the company and against the supervisor personally. It reduced the punitive damages as too high.

DO

Write down the small humiliations with dates and witnesses. A pattern of shunning and belittling can be harassment.

DON'T

Don't wait for one dramatic event. Many strong cases are built from many small ones.

WAR STORY 21

ONLINE HARASSMENT

The photo went around the department

Carranza v. City of Los Angeles (2025) 111 Cal.App.5th 388 · California Court of Appeal

WHAT HAPPENED

A topless photo, falsely said to be of a police captain, was passed around by cellphone among officers on duty. She learned of it and repeatedly asked the department to order officers to stop sharing it and to tell them it was not her. The department declined.

WHAT THE COURT DECIDED

The court upheld a $4 million verdict. Harassment does not have to happen to your face. Sexual content circulating among coworkers is harassment if you know about it and it affects your working conditions, and the employer must act once it knows.

DO

Ask your employer in writing to stop it. If it refuses, that refusal becomes part of your case.

DON'T

Don't assume it is not harassment because you were not in the room.

WAR STORY 22

SOCIAL MEDIA

A coworker's Instagram page

Okonowsky v. Garland (2024) 109 F.4th 1166 · U.S. Court of Appeals, Ninth Circuit

WHAT HAPPENED

A prison lieutenant ran an Instagram page followed by more than 100 coworkers. It carried sexist and racist posts, including a "joke" about officers sexually assaulting a staff psychologist at her home. When she complained, managers, including the head of human resources, told her the posts were "funny."

WHAT THE COURT DECIDED

The Ninth Circuit reversed a ruling for the employer. Posts made outside the workplace, on a personal account, can still create a hostile work environment when they target coworkers and affect the workplace. How the employer responds counts too.

DO

Screenshot posts, comments, and the list of coworkers who follow or react. Report it in writing.

DON'T

Don't accept "that's his personal account, there's nothing we can do."

WAR STORY 23

FAVORITISM

The warden's favorites

Miller v. Department of Corrections (2005) 36 Cal.4th 446 · California Supreme Court

WHAT HAPPENED

A prison warden was having affairs with several subordinates at the same time. They received promotions and privileges that other employees did not, and they openly boasted about their influence. Women who complained were mistreated.

WHAT THE COURT DECIDED

Widespread sexual favoritism can itself create a hostile work environment, because it tells everyone that the way to get ahead is through sexual relationships. The court also confirmed that a complaint is protected if the employee reasonably and in good faith believed the conduct was unlawful, even if a court later disagrees.

DO

Report what you reasonably believe is unlawful. You do not have to be a lawyer, and you do not have to be right.

DON'T

Don't confuse this with ordinary office gossip or one consensual relationship. The court was describing something pervasive.

The writers' room

Lyle v. Warner Brothers Television Productions (2006) 38 Cal.4th 264 · California Supreme Court

WHAT HAPPENED

A writers' assistant on the sitcom *Friends* sat in on meetings where the writers told crude sexual jokes and stories while developing scripts for an adult-themed comedy. Most of the talk was not aimed at her or at other women at work.

WHAT THE COURT DECIDED

She lost. Harassment must be *because of* a protected trait and severe or pervasive enough to change working conditions. In that setting, coarse talk that was not directed at her and was tied to the creative work did not meet the test.

DO

Note who the conduct was aimed at and how it affected your work. Those facts decide close cases.

DON'T

Don't read this case too broadly. It turned on an unusual job.

Since 2019: California law says the standard for harassment does not change with the type of workplace. Courts may consider the nature of the job only when sexual talk is truly part of the work itself (Gov. Code § 12923(d)).

LESSON

Report it, in writing, to someone who can act

In California, an employer is automatically liable for harassment by a supervisor. But if you could have used the employer's complaint procedure and unreasonably did not, your damages can be reduced for the harm that reporting would have prevented. In one federal case, an employee who waited more than a year to report, and never tried the other reporting channels her employer listed, lost her federal claim.

- → Report to HR or a manager above the harasser. If that person *is* the harasser, use another listed channel.
- → Put it in an email. Say what happened and that you want it to stop.
- → Keep a copy at home, and write down how the employer responded.

Sources: *State Dept. of Health Services v. Superior Court (McGinnis)* (2003) 31 Cal.4th 1026; *Holly D. v. California Institute of Technology* (9th Cir. 2003) 339 F.3d 1158; Gov. Code § 12940(j)(1).

FAQ Harassment

Q Is one incident enough?

It can be. California law says a single incident of harassing conduct may be enough to take a case to a jury if it unreasonably interfered with your work or created a hostile environment.

Gov. Code § 12923(b).

Q Does harassment have to be sexual?

No. It can be based on race, religion, national origin, age, disability, sexual orientation, gender identity, or any other protected trait.

Gov. Code § 12940(j).

Q What if the harasser is a customer or a vendor?

Your employer must protect you from non-employees too. It can be liable if it knew or should have known and failed to take immediate and appropriate corrective action.

Gov. Code § 12940(j)(1).

Q I never reported it. Is it too late?

Not necessarily. Failing to report does not erase a claim for supervisor harassment in California, though it can reduce what you recover. Report now, in writing, and get advice about the deadline.

State Dept. of Health Services v. Superior Court (2003) 31 Cal.4th 1026.

Q Can I be forced to arbitrate a sexual harassment claim?

Generally no. Under federal law, a person with a sexual harassment or sexual assault claim can choose court even if they signed an arbitration agreement before the dispute arose.

9 U.S.C. §§ 401–402.

TAKE-AWAY

When work turns hostile

1. **Report it in writing.** It protects you, it starts the employer's duty to act, and it protects your damages.
2. **Screenshots and dates.** Online and off-duty conduct counts. Save it before it disappears.
3. **Watch the response.** A dismissive or mocking response from HR can be its own violation.
4. **The harasser can be personally liable.** Not just the company.

VI

PART VI

Speaking up

The law protects employees who speak up. It protects you for complaining about discrimination, for reporting illegal conduct, for asking about your pay, and for raising safety problems.

But the protection has a shape. The stories in this part show where it is strong, and the few places where employees have stepped outside it.

WAR STORIES IN THIS PART

25 Her harassment claim lost. Her retaliation claim did not.

26 The manager who decided never knew about the complaint

27 The teacher who never actually complained

28 She mentioned the bonus

29 The lawyer who called immigration

30 Fired because her lawyer wrote a letter

31 He won on a claim he never put on the form

WAR STORY 25

RETALIATION

Her harassment claim lost. Her retaliation claim did not.

Westendorf v. West Coast Contractors of Nevada, Inc. (2013) 712 F.3d 417 · U.S. Court of Appeals, Ninth Circuit

WHAT HAPPENED

A project manager's assistant worked with a coworker who made crude remarks about women's bodies and kept telling her to clean in a French maid's costume. Her supervisor called her tasks "girly work" and smiled along at the coworker's remarks. She complained to the company president. About two weeks after a formal interview about her complaints, she says, she was fired.

WHAT THE COURT DECIDED

The court found the remarks, though offensive, were not severe or frequent enough for a federal harassment claim. But her retaliation claim went forward. An employee who complains in good faith is protected from being punished for it, even if the underlying conduct turns out not to be illegal.

DO

Complain about conduct you reasonably believe is unlawful. The protection attaches to the complaint.

DON'T

Don't stay silent because you are not sure it is "bad enough."

WAR STORY 26

RETALIATION

The manager who decided never knew about the complaint

Reeves v. Safeway Stores, Inc. (2004) 121 Cal.App.4th 95 · California Court of Appeal

WHAT HAPPENED

A grocery clerk told his store manager that female coworkers were being sexually harassed. The manager brushed it off. Later the clerk was accused of pushing a coworker, and the same store manager started the process that got him fired. The person who made the final decision knew nothing about the harassment complaint.

WHAT THE COURT DECIDED

The employer could still be liable. If a supervisor with a retaliatory motive sets a firing in motion or supplies the information for it, the company cannot hide behind the innocence of whoever signed the paperwork.

DO

Keep a record of who you complained to and when. It matters even if someone else delivers the news.

DON'T

Don't assume your case is over because the person who fired you "had no idea."

WAR STORY 27

WHISTLEBLOWING

The teacher who never actually complained

Diego v. Pilgrim United Church of Christ (2014) 231 Cal.App.4th 913 · California Court of Appeal

WHAT HAPPENED

A preschool received a surprise state licensing inspection. The director wrongly believed one of the teachers had called the agency. The teacher was fired.

WHAT THE COURT DECIDED

Her case could go forward. The court held that firing someone because the employer *believes* she reported a violation offends California public policy, even if she never made the report. California's whistleblower statute now says the same thing in its own words.

DO

If you are blamed for a complaint, write down what was said and by whom, right away.

DON'T

Don't assume you have no rights because you never made the report.

WAR STORY 28

PAY TALK

She mentioned the bonus

Grant-Burton v. Covenant Care, Inc. (2002) 99 Cal.App.4th 1361 · California Court of Appeal

WHAT HAPPENED

A marketing director told coworkers she had not received a bonus, and they discussed whether the bonus system was fair. She was fired, in part for that discussion.

WHAT THE COURT DECIDED

She could sue for wrongful termination. California law protects employees who discuss their wages, and bonuses count as wages.

DO

Know that you may talk about your pay with coworkers.

DON'T

Don't sign, or feel bound by, a rule that pay is "confidential." Such rules are unlawful.

WAR STORY 29

IMMIGRATION THREATS

The lawyer who called immigration

Arias v. Raimondo (2017) 860 F.3d 1185 · U.S. Court of Appeals, Ninth Circuit

WHAT HAPPENED

A dairy worker sued his employer over unpaid overtime and missed breaks. According to his complaint, ten weeks before trial the employer's lawyer contacted immigration authorities to try to have him taken into custody at a scheduled deposition and removed from the country.

WHAT THE COURT DECIDED

The worker could sue the lawyer personally for retaliation. The federal wage law forbids retaliation by "any person," not just by the employer.

DO

Know that workplace rights apply regardless of immigration status, and that threats to report status in response to a complaint are illegal.

DON'T

Don't let a threat like this make you drop a valid claim before talking to a lawyer.

WAR STORY 30

HAVING A LAWYER

Fired because her lawyer wrote a letter

Gelini v. Tishgart (1999) 77 Cal.App.4th 219 · California Court of Appeal

WHAT HAPPENED

An employee's lawyer wrote to her employer about her working hours and maternity leave. The employer fired her because of the letter.

WHAT THE COURT DECIDED

The firing was unlawful. California protects an employee's right to choose a representative to negotiate the terms of her employment.

DO

Know that you may have a lawyer speak for you about your terms of employment.

DON'T

Don't confuse this with an HR interview. A private employer generally can require you to attend an investigation meeting without your lawyer in the room.

Compare: *TRW, Inc. v. Superior Court* (1994) 25 Cal.App.4th 1834 (employee who refused an investigation interview without his lawyer could be fired).

He won on a claim he never put on the form

Okoli v. Lockheed Technical Operations Co. (1995) 36 Cal.App.4th 1607 · California Court of Appeal

WHAT HAPPENED

An employee filed an administrative charge of discrimination. After he filed it, he says, the employer retaliated against him. He never amended the charge to add retaliation. At trial, the jury found for him on retaliation.

WHAT THE COURT DECIDED

The verdict was reversed. Before suing under California's discrimination law, an employee must first raise the claim with the state agency. Retaliation that was never put in the charge could not support the judgment.

DO

List every kind of mistreatment in your agency complaint, and amend it if new retaliation happens afterward.

DON'T

Don't treat the agency form as a formality. What you leave off can be lost.

LESSON

Where the protection runs out

Two kinds of cases show the edges.

- → **The complaint has to be about the law.** Whistleblower protection covers reports of what you reasonably believe is a violation of a statute or regulation. Complaints that the employer broke only its own internal policies, or about ordinary personnel matters, are not covered the same way.
- → **Speaking up is not a shield for misconduct.** A whistleblower lost where the employer proved, by clear and convincing evidence, that it would have let her go anyway for being insubordinate, disrespectful, and dishonest.
- → **So:** say which law you think is being broken, keep it truthful, and keep doing your job well.

Sources: Lab. Code §§ 1102.5, 1102.6; *Mueller v. County of Los Angeles* (2009) 176 Cal.App.4th 809; *Vatalaro v. County of Sacramento* (2022) 79 Cal.App.5th 367.

FAQ Retaliation and whistleblowing

Q What counts as retaliation?

Being fired, demoted, cut in pay, or otherwise materially punished because you did something the law protects, such as complaining about discrimination, reporting a violation of law, requesting an accommodation, or filing a wage claim.

Gov. Code § 12940(h); Lab. Code §§ 98.6, 1102.5.

Q Does my complaint have to be right?

No. You need a reasonable, good-faith belief that what you reported was unlawful. You do not need legal terms.

Miller v. Department of Corrections (2005) 36 Cal.4th 446.

Q Do I have to report to the government, or does telling my boss count?

Internal reports count. The whistleblower law protects disclosures to a person with authority over you, or with authority to investigate or fix the problem, as well as to government agencies.

Lab. Code § 1102.5(b).

Q I was disciplined right after I complained about my pay. Does the timing matter?

Yes. For complaints about wages and other Labor Code rights, discipline or firing within 90 days creates a presumption of retaliation that the employer must answer.

Lab. Code § 98.6(b)(1).

Q Can I be fired for reporting a safety problem or a work injury?

No. Safety complaints, injury reports, and refusing work that violates a safety rule and creates a real hazard are protected. So is filing a workers' compensation claim.

Lab. Code §§ 132a, 6310, 6311.

TAKE-AWAY

Speaking up

1. **Complain in writing and name the problem.** "I believe this is illegal because…" is the clearest way to get protection.
2. **You do not have to be right.** You have to be honest and reasonable.
3. **Track what changes afterward.** Schedules, write-ups, exclusions, pay. Dates matter.
4. **Put everything in the agency complaint.** Including retaliation that comes later.
5. **Keep your own conduct clean.** A complaint protects you from retaliation, not from the consequences of real misconduct.

VII

PART VII

Your health and your job

California gives employees with medical conditions more protection than federal law does. Your employer must make reasonable accommodations, and it must talk with you in good faith to find them.

That conversation is a two-way street. In the cases employees lost, the same few missteps come up again and again: going silent, refusing an offered option, or not bringing the doctor's note.

WAR STORIES IN THIS PART

32 She told her boss about the tumor. No form, no magic words.

33 Six weeks gone, and the explanation came too late

34 He turned down the only job that fit

35 Stress caused by her supervisor was not a disability

36 Six meetings, three notes, no proof of a disability

37 Two forms, two stories

38 The restaurant he ran while on medical leave

39 A diagnosis does not excuse a threat

WAR STORY 32

ASKING

She told her boss about the tumor. No form, no magic words.

Soria v. Univision Radio Los Angeles, Inc. (2016) 5 Cal.App.5th 570 · California Court of Appeal

WHAT HAPPENED

A radio host said she told her supervisor that she had a tumor, that her doctors wanted to remove it, and that she wanted time off for surgery. She gave no medical records and never went to human resources. The supervisor denied the conversations. The host was fired soon after, supposedly for lateness.

WHAT THE COURT DECIDED

Her case could go to a jury. An employee has to let the employer know about the condition and the need, but no magic words are required. Once the employer knows, the duty to work with the employee begins.

DO

Say plainly what the condition is and what you need. Then confirm it in an email so there is a record.

DON'T

Don't wait until you know the legal terms. Plain words are enough.

WAR STORY 33

SILENCE

Six weeks gone, and the explanation came too late

Brundage v. Hahn (1997) 57 Cal.App.4th 228 · California Court of Appeal

WHAT HAPPENED

An employee did not come back from a short vacation and could not be reached. After about two weeks her employer treated her as having resigned. About six weeks after she disappeared, she called from a hospital and said she had bipolar disorder. She had been diagnosed months earlier but had never told her employer.

WHAT THE COURT DECIDED

She lost. An employer cannot discriminate because of a disability it does not know about, and it has no duty to accommodate a condition no one has told it about.

DO

Tell your employer, or have a family member or doctor tell them, before or during the absence.

DON'T

Don't disappear. Explaining after the termination letter is usually too late.

WAR STORY 34

THE OFFERED JOB

He turned down the only job that fit

Hanson v. Lucky Stores, Inc. (1999) 74 Cal.App.4th 215 · California Court of Appeal

WHAT HAPPENED

An injured grocery employee received about 16 months of leave, well beyond what his union contract required. When he could return with restrictions, the only open job that fit was a part-time position at lower pay without benefits. He refused it and was terminated.

WHAT THE COURT DECIDED

The employer had met its duty. The law entitles an employee to a reasonable accommodation, not to the accommodation the employee would choose.

DO

Take an offered accommodation seriously. If it does not work, say why in writing and propose something specific.

DON'T

Don't flatly refuse and walk away from the conversation.

WAR STORY 35

THE BOSS PROBLEM

Stress caused by her supervisor was not a disability

Higgins-Williams v. Sutter Medical Foundation (2015) 237 Cal.App.4th 78 · California Court of Appeal

WHAT HAPPENED

An employee was diagnosed with anxiety and stress tied to working under her particular supervisor. Her employer gave her months of leave. When she did not provide a date she could return, she was terminated.

WHAT THE COURT DECIDED

She lost. The court held that an inability to work under a particular supervisor, because of stress from that supervisor's ordinary oversight of job performance, is not a disability under California law.

DO

Keep communicating during leave. Give a return date or your doctor's best estimate.

DON'T

Don't rely on "I can't work for this person" as a medical accommodation. If the supervisor's conduct is harassment or retaliation, that is a different claim.

WAR STORY 36

MEDICAL PROOF

Six meetings, three notes, no proof of a disability

Allos v. Poway Unified School District (2025) 112 Cal.App.5th 822 · California Court of Appeal

WHAT HAPPENED

A school district employee asked to keep working from home full time after the COVID-19 shutdown ended. She gave the district three short doctor's notes. The district met with her six times and allowed partial remote work. Her notes and records never showed a condition that limited her ability to work.

WHAT THE COURT DECIDED

Her claims failed. The court held the district was immune for its pandemic return-to-office decisions and that, in any event, she had not shown a disability. It also held that an employer's willingness to talk about accommodation is not an admission that the employee is disabled.

DO

Bring the documentation. Ask your doctor to describe your limitations and what would help, in specific terms.

DON'T

Don't rely on a one-line note. If your employer asks for more detail, get it from your doctor.

WAR STORY 37

INCONSISTENT STATEMENTS

Two forms, two stories

Jackson v. County of Los Angeles (1997) 60 Cal.App.4th 171 · California Court of Appeal

WHAT HAPPENED

An officer settled a workers' compensation claim on the stated basis that he had to work in a stress-free environment. He then sued his employer under disability law, claiming he could do his job.

WHAT THE COURT DECIDED

He was barred from taking the second position. A person who wins a benefit by telling one tribunal he cannot do the job may not turn around and tell another that he can.

DO

Read every benefits and workers' compensation form before you sign. Be accurate about what you can do *with* accommodation.

DON'T

Don't write "totally unable to work" if the truth is "unable to work without changes."

Compare: *Cleveland v. Policy Management Systems Corp.* (1999) 526 U.S. 795 (a disability-benefits claim does not automatically bar a disability suit, but the employee must explain the apparent contradiction).

WAR STORY 38

LEAVE

The restaurant he ran while on medical leave

Richey v. AutoNation, Inc. (2015) 60 Cal.4th 909 · California Supreme Court

WHAT HAPPENED

A car-dealership employee took medical leave for a back injury. While on leave he worked at a restaurant he owned. The employer had a written policy against outside work during leave, warned him, and then fired him.

WHAT THE COURT DECIDED

He lost. An arbitrator found he was fired for violating the outside-work policy, and the California Supreme Court let that decision stand.

DO

Read your employer's leave and outside-work policies before you do anything during leave that looks like work.

DON'T

Don't work a side job, even your own business, while on medical leave without checking first.

WAR STORY 39

THREATS

A diagnosis does not excuse a threat

Mayo v. PCC Structurals, Inc. (2015) 795 F.3d 941 · U.S. Court of Appeals, Ninth Circuit

WHAT HAPPENED

An employee with major depression told coworkers he felt like bringing a gun to work and shooting his supervisors. Asked about it, he said he could not guarantee he would not do it. He was fired.

WHAT THE COURT DECIDED

He was not protected by disability law. The court held that an employee who makes serious, credible threats of violence against coworkers is not qualified for the job, whatever the cause.

DO

If you are struggling, tell a doctor and ask for leave or an accommodation.

DON'T

Don't vent with threats or "jokes" about violence. A medical condition will not protect your job if you do.

LESSON

How to ask for an accommodation

- → **Tell them.** Say you have a medical condition and what you need: a schedule change, leave, equipment, remote work, reassignment.
- → **Write it down.** Follow up any conversation with a short email.
- → **Bring a note.** A doctor's letter describing your limitations and what would help.
- → **Stay in the conversation.** Answer requests, propose alternatives, give return dates.
- → **Know the limits.** You are owed an effective accommodation, not your first choice. Indefinite leave is not required.

Sources: Gov. Code § 12940(m), (n); 2 Cal. Code Regs. § 11069; *King v. United Parcel Service, Inc.* (2007) 152 Cal.App.4th 426; *Hanson v. Lucky Stores, Inc.* (1999) 74 Cal.App.4th 215.

FAQ Health and leave

Q What counts as a disability in California?

More than under federal law. A physical or mental condition that *limits* a major life activity qualifies, judged without regard to medication or other aids. Working is a major life activity.

Gov. Code §§ 12926, 12926.1.

Q Can I be fired when my medical leave runs out?

Not automatically. More leave can itself be a reasonable accommodation if it is likely to let you return. The employer should talk with you first. Leave with no end in sight is not required.

Gov. Code § 12940(m), (n); *Hanson v. Lucky Stores, Inc.* (1999) 74 Cal.App.4th 215.

Q Can I be punished for asking for an accommodation?

No. Requesting an accommodation is protected whether or not the request is granted.

Gov. Code § 12940(m)(2).

Q How much job-protected family and medical leave do I get?

Up to 12 weeks in a 12-month period under the California Family Rights Act, at employers with five or more employees, once you have worked there 12 months and 1,250 hours. Pregnancy disability leave is separate: up to four months, with no minimum time on the job.

Gov. Code §§ 12945, 12945.2.

Q How much paid sick leave do I get?

At least one hour for every 30 hours worked, with at least 40 hours or five days usable each year.

Lab. Code § 246.

TAKE-AWAY

Your health and your job

1. **Tell them, in writing.** No magic words. But they have to know.
2. **Bring the doctor's note.** Make it specific about your limits and what would help.
3. **Never go silent.** Absence without explanation looks like quitting.
4. **Be consistent.** What you say on benefits forms will be read back to you.
5. **Respect the leave rules.** Check your employer's policy before doing any other work, and keep your return date current.

VIII

PART VIII

Privacy and your life outside work

The California Constitution protects privacy, and that protection follows you to work. But it is narrower at work than most people think, and a policy you signed on your first day may have narrowed it further.

“It’s my private life” wins less often than you would hope. Specific statutes win more often than you would expect.

WAR STORIES IN THIS PART

40 The hidden camera in the shared office

41 The supervisor told the whole department

42 The company computer at home

43 The supervisor who dated a subordinate

44 The professor who refused the exam

WAR STORY 40

CAMERAS

The hidden camera in the shared office

Hernandez v. Hillsides, Inc. (2009) 47 Cal.4th 272 · California Supreme Court

WHAT HAPPENED

A residential facility for abused children discovered that someone was using an office computer at night to view pornography. Without telling the two women who shared that office by day, the director hid a camera there. It was turned on only after hours. The women were never recorded.

WHAT THE COURT DECIDED

The employees had a reasonable expectation of privacy in their closed office, and the hidden camera intruded on it. But they lost, because the intrusion was narrow in place, time, and purpose, and so was not highly offensive.

DO

Know where the law bars recording you: restrooms, locker rooms, and rooms set aside for changing clothes.

DON'T

Don't assume every camera at work is unlawful, or that none is. Ask what is recorded and why.

Law: Lab. Code § 435.

WAR STORY 41

MEDICAL PRIVACY

The supervisor told the whole department

Ignat v. Yum! Brands, Inc. (2013) 214 Cal.App.4th 808 · California Court of Appeal

WHAT HAPPENED

An employee with bipolar disorder sometimes missed work when her medication was adjusted. She said that after one absence, her supervisor told her she had informed everyone in the department of the diagnosis. She said coworkers then avoided and shunned her. The trial court threw the case out because nothing had been put in writing.

WHAT THE COURT DECIDED

The Court of Appeal revived her privacy claim. Disclosing private facts can be actionable even when it is only spoken and never put in writing. Whether the disclosure happened was left for the trial court.

DO

If a manager spreads your medical information, report it to HR in writing.

DON'T

Don't assume "it was just talk" means there is no remedy.

WAR STORY 42

WORK DEVICES

The company computer at home

TBG Insurance Services Corp. v. Superior Court (2002) 96 Cal.App.4th 443 · California Court of Appeal

WHAT HAPPENED

An employer gave an executive a second computer to use at home. He had signed a policy saying company computers were for business, that he had no privacy in them, and that the company could monitor them. When a dispute arose, the company demanded the home computer, and he claimed its contents were private.

WHAT THE COURT DECIDED

He lost. By signing the monitoring policy, he gave up any reasonable expectation of privacy in what he put on that machine.

DO

Keep personal files, photos, messages, and accounts on your own devices.

DON'T

Don't treat a company laptop or phone as yours, even at home, even with your own password.

WAR STORY 43

OFF-DUTY CONDUCT

The supervisor who dated a subordinate

Barbee v. Household Automotive Finance Corp. (2003) 113 Cal.App.4th 525 · California Court of Appeal

WHAT HAPPENED

A national sales manager dated a member of the sales force he led. Company policy required a supervisor in that position to tell management, so it could avoid a conflict of interest. The CEO had also warned him that dating inside the company was a bad idea. He was fired, and argued that the law protecting lawful off-duty conduct made the firing illegal.

WHAT THE COURT DECIDED

He lost. The statute he relied on did not create a new right. And given the policy and the warning, a supervisor could not reasonably expect privacy in a relationship with someone he supervised.

DO

Read the conflict-of-interest and dating policy, especially if you supervise the other person, and disclose as it requires.

DON'T

Don't count on "what I do off the clock is my business" as a legal defense.

The professor who refused the exam

Kao v. University of San Francisco (2014) 229 Cal.App.4th 437 · California Court of Appeal

WHAT HAPPENED

Colleagues reported that a professor's behavior was frightening them. The university told him to undergo a fitness-for-duty examination. The examiner would have reported only whether he was fit, not his medical details. He refused and was fired.

WHAT THE COURT DECIDED

He lost. An employer may require a medical examination of a current employee when it is job-related and consistent with business necessity, and this one was.

DO

Ask in writing what the examiner will be told to evaluate and what will be reported back. Then get advice.

DON'T

Don't flatly refuse a properly limited fitness-for-duty exam.

LESSON

Recording, passwords, cannabis, and politics

- → **Secret recording:** recording a confidential conversation without consent is a crime in California. The recording is generally unusable, and the person recorded can sue you. Take notes right afterward instead.
- → **Social media:** your employer generally may not demand your personal usernames or passwords, or make you open your account in front of them. A narrow exception covers misconduct investigations.
- → **Cannabis:** since 2024, most employers may not penalize off-duty, off-site cannabis use, or rely on tests that detect only inactive traces. Being impaired at work is not protected, and some jobs are exempt.
- → **Political activity:** an employer may not control or direct your political activities or affiliations.
- → **Free speech:** the First Amendment limits the government, not private employers. Your protection comes from specific statutes like these.

Sources: Pen. Code §§ 632, 637.2; Lab. Code §§ 232, 980, 1101, 1102; Gov. Code § 12954.

FAQ Privacy

Q Can my employer read my work email and messages?

If there is a written policy that company systems are for business and may be monitored, assume yes. That can include messages to your own lawyer.

Holmes v. Petrovich Development Co. (2011) 191 Cal.App.4th 1047; *TBG Insurance Services Corp. v. Superior Court* (2002) 96 Cal.App.4th 443.

Q Is it legal to record my boss?

Not secretly, if the conversation is confidential. It is a crime, it exposes you to a lawsuit, and the recording generally cannot be used.

Pen. Code §§ 632, 637.2.

Q Can I be drug tested at random?

It depends on the job. California's constitution protects privacy at work, and courts weigh the employer's reason against the intrusion. Testing all job applicants has been upheld. Blanket testing of current employees, with no reason tied to the particular job, has been struck down.

Cal. Const., art. I, § 1; see *Loder v. City of Glendale* (1997) 14 Cal.4th 846.

Q Do I own what I invent on my own time?

Generally yes. Your employment agreement cannot make you hand over an invention you made entirely on your own time, without the employer's equipment or trade secrets, unless it relates to the employer's business or your work for it.

Lab. Code § 2870.

TAKE-AWAY

Privacy and your life outside work

1. **Company device, company eyes.** Assume anything on work systems can be read.
2. **Never record in secret.** Write notes and send a follow-up email.
3. **Read the policies you signed.** They decide many privacy cases before they start.
4. **Rely on statutes, not slogans.** Passwords, pay talk, political activity, and off-duty cannabis each have a specific law.

IX

PART IX

Building your case without wrecking it

When people sense trouble at work, their first instinct is to grab proof. That instinct is right. How they grab it is where good cases go bad.

The employees in this part had real claims. Then they handed the other side a weapon: a stack of copied files, an email sent from a work laptop, a phone wiped clean. The law usually still protected them. But the mistake cost a great deal.

WAR STORIES IN THIS PART

45 She copied the files to protect herself. It cost her.

46 He went through his boss's files the day he was passed over

47 She emailed her lawyer from her work computer

48 What he took got his own lawyers removed

49 The deleted texts that ended her case

WAR STORY 45

TAKING DOCUMENTS

She copied the files to protect herself. It cost her.

McKennon v. Nashville Banner Publishing Co. (1995) 513 U.S. 352 · U.S. Supreme Court

WHAT HAPPENED

A longtime employee was let go in what her employer called a workforce reduction. She sued, claiming it was really age discrimination. In her deposition she admitted that during her last year she had copied confidential company documents because she feared she was about to be fired. The company said it would have fired her for that alone, and asked the court to end her case.

WHAT THE COURT DECIDED

The Supreme Court refused to end it. Misconduct the employer learns about later does not erase discrimination that already happened. But it limits the remedy: back pay generally stops on the day the employer found out, and reinstatement and future pay are generally off the table.

DO

Keep copies of what is already yours: your pay stubs, reviews, and messages sent to you. Write a timeline.

DON'T

Don't copy, forward, or download confidential company files "just in case." Ask a lawyer first what you may keep.

WAR STORY 46

TAKING DOCUMENTS

He went through his boss's files the day he was passed over

O'Day v. McDonnell Douglas Helicopter Co. (1996) 79 F.3d 756 · U.S. Court of Appeals, Ninth Circuit

WHAT HAPPENED

An employee believed he was denied a promotion, and then picked for a layoff, because of his age. On the day he was denied the promotion, he went into his supervisor's office, copied confidential personnel documents, and shared them. When the company learned of it during the lawsuit, it changed his layoff into a termination.

WHAT THE COURT DECIDED

His conduct limited what he could recover, because the company proved it would have fired him for it. But it did not wipe out his age claim. The court also repeated a line worth remembering: proving a firing would have been *justified* is not the same as proving the employer *would have* done it.

DO

Ask for records the legal way. You have a right to your personnel file, your pay records, and anything you signed.

DON'T

Don't go into anyone else's office, drawer, inbox, or shared drive to look for evidence.

WAR STORY 47

WORK COMPUTERS

She emailed her lawyer from her work computer

Holmes v. Petrovich Development Co. (2011) 191 Cal.App.4th 1047 · California Court of Appeal

WHAT HAPPENED

An executive assistant used her company computer and company email to write to her lawyer about how her boss was treating her after she told him she was pregnant. She had signed a policy saying company computers were for business only and would be monitored.

WHAT THE COURT DECIDED

Those emails were not protected by the attorney-client privilege. Writing to a lawyer on a system the employer has said it monitors, the court reasoned, is like holding the meeting in the employer's conference room with the door open.

DO

Use a personal phone, personal email, and home internet for anything about a dispute with your employer.

DON'T

Don't use a work laptop, work phone, work email, work chat, or office Wi-Fi to contact a lawyer or plan a claim.

WAR STORY 48

PRIVILEGED DOCUMENTS

What he took got his own lawyers removed

Clark v. Superior Court (2011) 196 Cal.App.4th 37 · California Court of Appeal

WHAT HAPPENED

An employee suing his former employer gave his lawyers company documents he had kept. Some were the company's confidential communications with its own attorneys. His lawyers reviewed and used them.

WHAT THE COURT DECIDED

The court upheld an order disqualifying his lawyers from the case. A lawyer who receives the other side's privileged material must stop reading, notify the other side, and sort it out. Using it can cost the client the lawyers he chose.

DO

Tell your lawyer exactly what you have and where it came from, before handing anything over.

DON'T

Don't take anything that looks like legal advice to the company: emails to or from its lawyers, or files marked privileged.

The deleted texts that ended her case

Jones v. Riot Hospitality Group LLC (2024) 95 F.4th 730 · U.S. Court of Appeals, Ninth Circuit

WHAT HAPPENED

An employee sued her former employer. During the case, a forensic review showed that text messages with coworkers and witnesses had been deleted from her phone, and that witnesses had deleted theirs. Court orders to produce the messages were not followed.

WHAT THE COURT DECIDED

The trial court dismissed her entire case as a sanction for intentionally destroying evidence. It had already ordered her and her lawyer to pay more than $69,000 of the other side's fees and costs for not turning over the messages. The Ninth Circuit upheld both rulings.

DO

Preserve everything once a dispute begins: texts, emails, photos, social media, voicemail. Turn off auto-delete.

DON'T

Don't delete anything, and don't ask a friend or witness to. Not even the messages you wish you had not sent.

LESSON

Save, don't take, and never delete

Courts draw a sharp line between keeping your own information and taking the company's. There is no right to "self-help" evidence gathering, and employers use taken documents as the basis for claims of their own.

- → **Usually fine:** your own notes and timeline, pay stubs, reviews, the handbook you were given, and messages sent to you.
- → **Risky:** customer lists, financial data, other employees' files, trade secrets, anything marked confidential or covered by an agreement you signed.
- → **Never:** the company's communications with its lawyers. And never delete after a dispute starts.
- → **Instead:** write down what exists and where it is kept. Your lawyer can demand it through the legal process.

Sources: Lab. Code §§ 226(b), 432, 1198.5; *Pillsbury, Madison & Sutro v. Schectman* (1997) 55 Cal.App.4th 1279.

LESSON

A mistake usually shrinks a case. It rarely kills it.

An employer that learns about an employee's misconduct later must prove three things to limit the recovery: that the employee did it, that it was serious enough that the employer would have fired the employee for that reason alone, and that doing so was its settled policy. Even then, the usual result is that lost pay stops on the date of discovery.

Sources: *Salas v. Sierra Chemical Co.* (2014) 59 Cal.4th 407; CACI No. 2506; *Cooper v. Rykoff-Sexton, Inc.* (1994) 24 Cal.App.4th 614.

FAQ Evidence

Q How do I get a copy of my personnel file?

Ask in writing. The employer generally has 30 calendar days to let you inspect it or give you a copy, and owes a $750 penalty if it does not. Ask early; the right is suspended once a lawsuit about the job is filed.

Lab. Code § 1198.5.

Q Can I get my pay records and the things I signed?

Yes. Payroll records are due within 21 days of your request, and you are entitled to a copy of any document you signed relating to getting or keeping the job.

Lab. Code §§ 226(b)–(c), 432.

Q I already forwarded work emails to my personal account. What now?

Stop, do not delete them, and do not share them with anyone else. Tell your lawyer exactly what you have before doing anything further.

Clark v. Superior Court (2011) 196 Cal.App.4th 37.

Q What should my timeline look like?

Date, what happened, who was there, exact words if you can, and what documents exist. Keep it on your own device. Add to it the same day things happen.

TAKE-AWAY

Building your case without wrecking it

1. **Your notes are your best evidence.** Start today.
2. **Request, don't take.** Use your legal right to your own records.
3. **Personal devices only.** Nothing about your dispute belongs on company systems.
4. **Delete nothing.** Destroying evidence can end a case that the evidence would only have dented.
5. **Tell your lawyer everything.** Including the resume, the files you kept, and the texts you regret.

X

PART X

What you sign

On your first day you are handed a stack of forms, or a link, and asked to click through. Somewhere in there may be an agreement that decides where your case is heard, and whether a jury ever hears it.

California voids some of these agreements outright and polices others closely. But the cases turn on details: what you signed, what you did not, and what you kept.

WAR STORIES IN THIS PART

50 A narrow noncompete is still a noncompete

51 Fired for refusing to sign

52 Fired by the new employer to honor the old one's noncompete

53 The doctor and the "no rehire" clause

54 "(Electronic Signature)"

55 Thirty days to opt out, and he did nothing

56 Thirteen months in court, then "we want arbitration"

57 The agency's paperwork followed him to the client

WAR STORY 50

NONCOMPETES

A narrow noncompete is still a noncompete

Edwards v. Arthur Andersen LLP (2008) 44 Cal.4th 937 · California Supreme Court

WHAT HAPPENED

An accountant had signed an agreement barring him, for a period after leaving, from working for or soliciting certain clients of his firm. When the firm sold his practice group, the buyer would hire him only if he signed a release of his claims in exchange for being let out of the noncompete. He refused and was not hired.

WHAT THE COURT DECIDED

The noncompete was void. California law invalidates contracts that restrain a person from working in a lawful profession, and there is no exception for restraints that are "narrow" or leave most of the market open.

DO

Know that in California, "it's only for a year" or "it's only our clients" does not make a noncompete enforceable.

DON'T

Don't turn down a job, or sign away claims, because of a noncompete before getting advice.

Law: Bus. & Prof. Code § 16600. Narrow exceptions apply to the sale of a business.

WAR STORY 51

NONCOMPETES

Fired for refusing to sign

D'Sa v. Playhut, Inc. (2000) 85 Cal.App.4th 927 · California Court of Appeal

WHAT HAPPENED

An employee was handed a confidentiality agreement that included a covenant not to compete. He refused to sign it and was fired for refusing.

WHAT THE COURT DECIDED

He could sue for wrongful termination. An employer may not fire an employee for declining to sign an agreement containing an illegal noncompete, even if the agreement says a court should enforce whatever parts are lawful.

DO

Say no politely and in writing, and keep a copy of what you were asked to sign.

DON'T

Don't sign under protest and assume you can sort it out later.

WAR STORY 52

NONCOMPETES

Fired by the new employer to honor the old one's noncompete

Silguero v. Creteguard, Inc. (2010) 187 Cal.App.4th 60 · California Court of Appeal

WHAT HAPPENED

A salesperson had signed a noncompete with a former employer. After she started a new job, the old employer contacted the new one, and the new employer let her go out of "respect" for the noncompete.

WHAT THE COURT DECIDED

She could sue the new employer for wrongful termination. Firing someone to honor a noncompete that California law treats as void violates public policy.

DO

If a cease-and-desist letter from a former employer costs you a job, get advice quickly.

DON'T

Don't assume the new employer was within its rights.

WAR STORY 53

SETTLEMENTS

The doctor and the "no rehire" clause

Golden v. California Emergency Physicians Medical Group (2018) 896 F.3d 1018 · U.S. Court of Appeals, Ninth Circuit

WHAT HAPPENED

An emergency-room doctor agreed out loud to settle a discrimination case against a large medical group, then refused to sign the written deal. One paragraph said he could not work at any facility the group staffed, and that the group could have him removed from any emergency room it later took over. The group handled a quarter or more of California's emergency-room visits.

WHAT THE COURT DECIDED

He could not be ordered to sign. A simple promise not to go back to the same employer was not the problem. Letting the group push him out of other employers' facilities was a substantial restraint on his profession, and that is void in California, even inside a settlement.

DO

Read the "no rehire" paragraph of any severance or settlement. Ask whether it reaches beyond your old employer to other workplaces.

DON'T

Don't skim the back half of a settlement. That is where these clauses live.

WAR STORY 54

ARBITRATION

“(Electronic Signature)”

Ruiz v. Moss Bros. Auto Group, Inc. (2014) 232 Cal.App.4th 836 · California Court of Appeal

WHAT HAPPENED

An employer said an employee had electronically signed an arbitration agreement. Its proof was a manager’s statement that he had signed, plus a printed name, date, and time on the form. It did not explain how the signature got there or why it could only have been his. He did not recall signing.

WHAT THE COURT DECIDED

That was not enough. The employer has to prove the electronic signature was actually the employee’s act.

DO

Keep copies of everything you sign or click through at hiring. Tell your lawyer if you do not remember an arbitration agreement.

DON’T

Don’t assume you are bound because the company says there is a signature on file.

Compare: *Espejo v. Southern California Permanente Medical Group* (2016) 246 Cal.App.4th 1047 (detailed proof of a unique login and password was enough).

WAR STORY 55

ARBITRATION

Thirty days to opt out, and he did nothing

Circuit City Stores, Inc. v. Najd (2002) 294 F.3d 1104 · U.S. Court of Appeals, Ninth Circuit

WHAT HAPPENED

An employer rolled out an arbitration program. It explained the program in writing and gave employees 30 days to opt out. One employee signed that he received the materials and did not opt out.

WHAT THE COURT DECIDED

He was bound. By not opting out within the window, he agreed to arbitrate.

DO

If you are given an opt-out window, put the date on your calendar and opt out in writing if you want to keep your right to go to court.

DON’T

Don’t ignore arbitration paperwork because signing or responding seems optional.

WAR STORY 56

ARBITRATION

Thirteen months in court, then “we want arbitration”

Quach v. California Commerce Club, Inc. (2024) 16 Cal.5th 562 · California Supreme Court

WHAT HAPPENED

A casino employee sued in court after he was fired. The employer answered, exchanged evidence, took his deposition, and asked for a jury trial. Thirteen months in, it moved to send the case to arbitration, relying on an agreement it had possessed from the start.

WHAT THE COURT DECIDED

Too late. The California Supreme Court held the employer had waived its right to arbitrate through its own conduct, and that the employee did not have to show he was harmed by the delay.

DO

Tell your lawyer about any arbitration agreement at the start, and keep track of how the employer behaves in court.

DON’T

Don’t assume an arbitration agreement always ends your day in court.

WAR STORY 57

STAFFING AGENCIES

The agency’s paperwork followed him to the client

Garcia v. Pexco, LLC (2017) 11 Cal.App.5th 782 · California Court of Appeal

WHAT HAPPENED

A worker was hired by a staffing agency and placed at another company. He signed an arbitration agreement with the agency only. He later sued both companies over wage violations.

WHAT THE COURT DECIDED

Both could require arbitration, including the company that never signed anything, because his claims against the two were intertwined and he alleged they were joint employers.

DO

Keep everything a temp or staffing agency has you sign. It can control your rights against the company where you actually work.

DON’T

Don’t assume a company you never signed with cannot rely on the agency’s agreement.

LESSON

When an arbitration agreement may not hold

- → **You never agreed.** The employer must prove it. A handbook receipt is not the same as an arbitration agreement.
- → **It is unfair.** A required agreement must provide a neutral arbitrator, adequate exchange of evidence, a written decision, all the remedies a court could give, and no costs beyond what you would pay in court.
- → **It is a sexual harassment or sexual assault case.** Federal law lets you choose court.
- → **The employer does not pay.** If the employer fails to pay the arbitration fees on time, you may be able to return to court.
- → **The employer waited too long.** Litigating in court for months can waive arbitration.

Sources: *Armendariz v. Foundation Health Psychcare Services, Inc.* (2000) 24 Cal.4th 83; 9 U.S.C. §§ 401–402; Code Civ. Proc. §§ 1281.97–1281.98; *Quach*; *Mitri v. Arnel Management Co.* (2007) 157 Cal.App.4th 1164.

FAQ Agreements

Q Can my employer make me sign a noncompete?

Not an enforceable one. Noncompetes are void in California, employers may not require them, and firing you for refusing to sign one can be wrongful termination.

Bus. & Prof. Code §§ 16600, 16600.1, 16600.5; *D'Sa v. Playhut, Inc.* (2000) 85 Cal.App.4th 927.

Q If there is no noncompete, can I take my client list?

Not if it is a trade secret. You may compete, but you may not take or use the employer's confidential information to do it. Leave the files behind.

Civ. Code § 3426 et seq.

Q My contract says disputes must be heard in another state. Is that valid?

For most employees who live and work primarily in California, no. An employer cannot require you to litigate California claims elsewhere or give up California law as a condition of employment.

Lab. Code § 925.

Q I signed a "stay or pay" agreement to repay training costs if I leave. Is that enforceable?

California has sharply limited these agreements, but only for contracts entered into on or after January 1, 2027. The Legislature pushed the start date back from 2026. Older agreements are judged under earlier law and can be enforceable. Whatever the agreement says, an employer cannot simply withhold your final paycheck to collect.

Bus. & Prof. Code § 16608 (as amended 2026); *City of Oakland v. Hassey* (2008) 163 Cal.App.4th 1477.

TAKE-AWAY

What you sign

1. **Keep a copy of everything.** Signed, clicked, or declined. Whether you are bound often turns on one page.
2. **Calendar the opt-out.** Silence can count as yes.
3. **Noncompetes are void here.** Do not let one cost you a job without getting advice.
4. **Arbitration is not always the end.** There are at least five ways an agreement can fail.

XI

PART XI

Leaving the job

The last few weeks of a job are when the most expensive mistakes are made. People quit in anger. They sign a release for two weeks' pay. They skip unemployment because they assume they do not qualify.

Slow down. Almost nothing at the end of a job has to be decided the same day.

WAR STORIES IN THIS PART

58 She tried to take back her resignation

59 He asked, and asked again, before he quit

60 The jury believed him. That was the wrong question.

61 He read it, signed it, and it held

62 The release that skipped the rules

63 He refused to sign the write-up

64 The training bill and the last paycheck

65 Logging back in after you leave

WAR STORY 58

RESIGNING

She tried to take back her resignation

Featherstone v. Southern California Permanente Medical Group (2017) 10 Cal.App.5th 1150 · California Court of Appeal

WHAT HAPPENED

An employee resigned by phone and confirmed it in writing. Days later she asked to withdraw the resignation, explaining that she had been suffering a temporary reaction to medication when she quit. The employer had already processed it and declined.

WHAT THE COURT DECIDED

She lost. An employer's refusal to let an employee take back a voluntary resignation is not an adverse action by the employer. It was not required to take her back.

DO

Sleep on it. If you are unwell or upset, ask for leave or a few days off instead.

DON'T

Don't resign in the heat of the moment or as a bargaining move. You may not be able to undo it.

WAR STORY 59

FORCED OUT

He asked, and asked again, before he quit

Vasquez v. Franklin Management Real Estate Fund, Inc. (2013) 222 Cal.App.4th 819 · California Court of Appeal

WHAT HAPPENED

A maintenance worker earning close to minimum wage had to drive his own truck for work and pay for the gas himself. That pushed his real pay below the minimum wage. He asked his supervisors for reimbursement over and over, got nowhere, and finally resigned because he could not afford to keep working.

WHAT THE COURT DECIDED

His case could go forward as a forced resignation. Conditions that effectively pay less than minimum wage, which the employer knew about and refused to fix, can be intolerable enough to count as a firing.

DO

Before you quit over bad conditions, tell the people in charge, more than once, in writing. Give them a chance to fix it.

DON'T

Don't quit in silence. In another case, a judgment for an employee was reversed in part because he never told his superiors the conditions were intolerable.

Compare: *Gibson v. Aro Corp.* (1995) 32 Cal.App.4th 1628.

WAR STORY 60

INVESTIGATIONS

The jury believed him. That was the wrong question.

Cotran v. Rollins Hudig Hall International, Inc. (1998) 17 Cal.4th 93 · California Supreme Court

WHAT HAPPENED

An executive whose employer had impliedly agreed to fire him only for good cause was accused of sexual harassment by two coworkers. The company investigated, concluded the accusations were credible, and fired him. He sued, and a jury that believed the harassment had not happened awarded him $1.78 million.

WHAT THE COURT DECIDED

The verdict was thrown out and a new trial ordered, and the California Supreme Court agreed. The question is not whether the misconduct actually happened. It is whether the employer, after an appropriate investigation, had fair and honest reasons, reached in good faith, to believe it did.

DO

If you are accused, take the investigation seriously. Give your full account, name your witnesses, and provide your documents.

DON'T

Don't refuse to participate and plan to clear your name later. You may not get the chance.

WAR STORY 61

RELEASES

He read it, signed it, and it held

Skrbina v. Fleming Companies, Inc. (1996) 45 Cal.App.4th 1353 · California Court of Appeal

WHAT HAPPENED

An employee who was being laid off signed a release in exchange for severance benefits. He later sued for age and disability discrimination, saying he had not understood the release to cover those claims.

WHAT THE COURT DECIDED

The release barred his lawsuit. A person who reads a release and signs it willingly is bound by its terms, absent fraud, duress, or similar wrongdoing, even as to claims he was not thinking about.

DO

Take the agreement home. Find out which claims you would be giving up and what they might be worth.

DON'T

Don't sign on the spot, and don't assume you can sue anyway if you change your mind.

WAR STORY 62

RELEASES

The release that skipped the rules

Oubre v. Entergy Operations, Inc. (1998) 522 U.S. 422 · U.S. Supreme Court

WHAT HAPPENED

An employee signed a severance release and received about $6,000. She had been given 14 days to consider it, no period to revoke it, and the release did not mention the federal age-discrimination law. She later sued for age discrimination without returning the money.

WHAT THE COURT DECIDED

Her age claim could proceed. Federal law sets strict requirements for a release of age claims by a worker 40 or older, including 21 days to consider and 7 days to revoke. A release that misses them does not waive the age claim, and she did not have to give the money back first.

DO

If you are 40 or older, count the days you were given and look for the revocation period.

DON'T

Don't assume this rescues every release. It applies to federal age claims, not everything else you signed away.

WAR STORY 63

UNEMPLOYMENT

He refused to sign the write-up

Paratransit, Inc. v. Unemployment Insurance Appeals Board (2014) 59 Cal.4th 551 · California Supreme Court

WHAT HAPPENED

A driver was handed a disciplinary notice and told to sign it. He believed signing would be an admission and that he was entitled to union advice first, so he refused. He was fired for insubordination, and the employer fought his claim for unemployment benefits.

WHAT THE COURT DECIDED

He was entitled to benefits. Benefits are denied for "misconduct," but a good-faith error in judgment is not misconduct.

DO

Apply for unemployment even if you were fired. The employer has to prove misconduct. Poor performance and honest mistakes do not count.

DON'T

Don't refuse to sign a write-up outright. Sign and add "received, not agreed," then respond in writing.

WAR STORY 64

FINAL PAY

The training bill and the last paycheck

City of Oakland v. Hassey (2008) 163 Cal.App.4th 1477 · California Court of Appeal

WHAT HAPPENED

A police recruit agreed to repay his training costs if he left within five years. He left within the first year. The city kept his final paycheck to cover part of the debt and sued him for the rest.

WHAT THE COURT DECIDED

The repayment agreement was enforceable under the law at the time, and he owed the money. But the city broke the law by withholding his final paycheck. An employer has to collect a debt like any other creditor.

DO

Check your final check against what you were owed. Ask for an itemized statement.

DON'T

Don't sign a training-repayment agreement without understanding it. A new law will restrict many of them, but only agreements signed in 2027 or later.

Now: see Bus. & Prof. Code § 16608 for agreements entered on or after January 1, 2027.

WAR STORY 65

COMPANY SYSTEMS

Logging back in after you leave

United States v. Nosal (2016) 844 F.3d 1024 · U.S. Court of Appeals, Ninth Circuit

WHAT HAPPENED

An executive left his firm to start a competing business. After the firm shut off access for him and two colleagues who left with him, the colleagues used a current employee's login, at his direction, to get into the firm's confidential database and take information.

WHAT THE COURT DECIDED

His criminal convictions for computer fraud and trade-secret theft were affirmed. Once access has been revoked, getting back in with someone else's password is unauthorized access.

DO

Return devices, hand over passwords, and walk away from company systems when the job ends.

DON'T

Don't log back in, and don't ask a former coworker to pull something for you. That can be a crime.

LESSON

Before you sign a severance agreement

- → **You are owed your wages either way.** Final pay and accrued vacation cannot be conditioned on a release.
- → **Find out what you are giving up.** A general release usually covers every claim you have, known or unknown.
- → **Some things cannot be released or silenced.** You keep the right to file with government agencies, and an agreement cannot bar you from disclosing information about unlawful acts in the workplace.
- → **Use the time.** If you are 40 or older you must get at least 21 days. Even if you are not, California requires at least five business days.
- → **Everything is negotiable.** The amount, the reference, the "no rehire" clause, how the departure is described.

Sources: Lab. Code § 206.5; Gov. Code § 12964.5; Code Civ. Proc. § 1001; 29 U.S.C. § 626(f).

FAQ Leaving

Q Can I quit and still sue?

Sometimes. If conditions were so intolerable that a reasonable person would have had no choice but to resign, and the employer knew, the law treats it as a firing. That is a high bar. Get advice before you quit, not after.

CACI No. 2510; *Vasquez v. Franklin Management Real Estate Fund, Inc.* (2013) 222 Cal.App.4th 819.

Q When is my last paycheck due?

Immediately if you are fired or laid off. Within 72 hours if you quit without notice, or on your last day if you gave at least 72 hours' notice. A willful delay can cost the employer up to 30 days of your wages.

Lab. Code §§ 201–203.

Q I was fired. Can I get unemployment?

Usually yes. Benefits are denied only for misconduct or for quitting without good cause, and the employer has to prove misconduct.

Unemp. Ins. Code § 1256; *Paratransit, Inc. v. Unemployment Ins. Appeals Bd.* (2014) 59 Cal.4th 551.

Q Do I have a right to a lawyer in an HR investigation meeting?

At a private, non-union employer, generally not. An employee who refuses to take part without a lawyer present can be disciplined. You can still consult a lawyer before and after.

TRW, Inc. v. Superior Court (1994) 25 Cal.App.4th 1834.

Q Can my old employer give me a bad reference?

It can give a truthful one. But a knowingly false statement that keeps you from getting work is unlawful and can carry triple damages.

Lab. Code §§ 1050, 1054; Civ. Code § 47(c).

Q Do I get to keep my health insurance?

Usually you can continue it at your own expense. Federal COBRA covers employers with 20 or more employees; Cal-COBRA covers smaller ones.

29 U.S.C. § 1161 et seq.; Health & Saf. Code § 1366.20 et seq.

TAKE-AWAY

Leaving the job

1. **Don't quit angry.** A resignation is hard to undo and makes most cases harder.
2. **Complain before you resign.** A forced-resignation claim needs proof the employer knew and did not fix it.
3. **Cooperate with investigations.** Your side goes on the record there or not at all.
4. **Don't sign on the spot.** A release you read and signed will almost always hold.
5. **Apply for unemployment.** Being fired does not disqualify you. Misconduct does, and the employer must prove it.

CHECKLIST

Your first ten moves when something goes wrong

Nearly every war story in this guide turns on one of these ten habits. Tear this page out and keep it.

THE TEN MOVES

Do these, in roughly this order

1. **Start a timeline today.** Dates, names, exact words, witnesses. Write it at home, on your own device. Update it as things happen.
2. **Put it in writing.** Report the problem by email to HR or a manager above the problem. Say plainly what happened and, if it is true, why you think it is illegal (for example, "because of my age" or "because I reported unpaid overtime").
3. **Keep what is yours.** Pay stubs, reviews, offer letter, handbook, commission plan, texts and emails sent to you. Do not take confidential company files.
4. **Ask for your records.** Request your personnel file, your pay records, and copies of everything you signed, in writing.
5. **Get off the company's systems.** Use a personal phone, personal email, and home internet for anything about the dispute.
6. **Delete nothing.** Not texts, not posts, not photos, not even the embarrassing ones.
7. **Do not record in secret.** In California that can be a crime, and the recording usually cannot be used as evidence. Take notes right after the meeting and send a follow-up email instead.
8. **Do not quit, and do not sign, in a hurry.** Resignations are hard to undo and releases are hard to escape. Get advice first.
9. **Keep doing your job well.** Show up, meet deadlines, stay civil. Your own conduct will be examined.
10. **Check the deadline and call a lawyer.** Some clocks are short. A consultation early costs far less than a mistake.

DON'T WAIT

The deadline chart

These are common California deadlines for employees as of November 2026. Yours may be shorter. Contracts, public employers, union agreements, and federal claims can all change the answer. Treat every date as a reason to act early.

WHAT	HOW LONG YOU HAVE	LAW
Discrimination, harassment, or retaliation under the Fair Employment and Housing Act	File with the California Civil Rights Department within **3 years** of the unlawful act. After a right-to-sue notice, file in court within **1 year**.	Gov. Code §§ 12960, 12965
Federal discrimination charge (EEOC), in California	Generally **300 days**. After the EEOC's notice, **90 days** to sue in federal court.	42 U.S.C. § 2000e-5
Wrongful termination in violation of public policy	**2 years** from termination. This clock does not pause while a Civil Rights Department complaint is pending.	Code Civ. Proc. § 335.1
Unpaid wages, overtime, meal and rest break premiums	**3 years**; often a fourth year through the Unfair Competition Law.	Code Civ. Proc. § 338(a); Bus. & Prof. Code § 17208
Most statutory penalties, including PAGA	**1 year**. For PAGA, the notice to the state labor agency must go out within that year. Waiting-time penalties are different: they follow the deadline for the unpaid wages.	Code Civ. Proc. § 340(a); Lab. Code § 203(b)
Retaliation complaint to the Labor Commissioner	**1 year** from the retaliation.	Lab. Code § 98.7
Claim against a city, county, school district, or other public employer (non-FEHA claims)	Present a written government claim within **6 months**. A few claims get longer or are exempt, but do not count on it.	Gov. Code § 911.2
Appeal of a Labor Commissioner decision	**10 days** from service of the decision, slightly longer if it was mailed. Courts cannot extend it.	Lab. Code § 98.2
Breach of a written employment contract	**4 years**.	Code Civ. Proc. § 337
Severance release if you are 40 or older (to release federal age-discrimination claims)	At least **21 days** to consider (45 in a group layoff) and **7 days** to revoke after signing.	29 U.S.C. § 626(f)
Arbitration opt-out window	Whatever the paperwork says, often **30 days** from when you receive it.	Your agreement

WHAT	HOW LONG YOU HAVE	LAW
Unemployment benefits	Apply as soon as you are out of work. Benefits generally are not paid for weeks before you file.	Unemp. Ins. Code

REFERENCE

Plain-English glossary

Adverse action. Something an employer does that materially hurts your job: firing, demotion, a pay cut, a bad transfer, and similar acts.

After-acquired evidence. Misconduct by the employee that the employer learns about only later, usually during a lawsuit. It can limit what the employee recovers.

Arbitration. A private process where a paid arbitrator, not a judge or jury, decides the dispute. Many employers require it in hiring paperwork.

At-will employment. The default rule that either side can end the job at any time, for any lawful reason or no reason. It never permits an illegal reason.

CACI. California's official civil jury instructions. They state, in plain terms, what each side must prove.

CFRA. The California Family Rights Act: up to 12 weeks of job-protected leave for your own or a family member's serious health condition, or to bond with a new child.

Civil Rights Department (CRD). The state agency that takes discrimination, harassment, and retaliation complaints. Formerly the DFEH.

Constructive discharge. A forced resignation. Conditions were so intolerable that a reasonable person would have had no choice but to quit, and the employer knew.

Exempt employee. An employee who is not owed overtime, usually because both a salary test and a duties test are met. A title or a salary alone is not enough.

FEHA. The Fair Employment and Housing Act, California's main law against workplace discrimination, harassment, and retaliation.

Interactive process. The good-faith back-and-forth an employer must have with a disabled employee to find a reasonable accommodation.

Labor Commissioner. The state office (also called the DLSE) that hears wage claims and retaliation complaints.

PAGA. The Private Attorneys General Act, which lets employees seek civil penalties for Labor Code violations on the state's behalf.

Pretext. A false or cover reason given for a decision. Proof that the stated reason is untrue is often the heart of a discrimination case.

Protected activity. Something the law protects you for doing, such as reporting discrimination, asking for an accommodation, complaining about unpaid wages, or reporting a violation of law.

Reasonable accommodation. A change to the job or workplace that lets a person with a disability, or with a religious need, do the job.

Release. A contract, usually in a severance agreement, in which you give up legal claims in exchange for money.

Retaliation. Punishing an employee for protected activity.

Right-to-sue notice. The document from the Civil Rights Department or EEOC that lets you file a lawsuit. It starts a new deadline.

Summary judgment. A ruling that ends a case without a trial because the judge finds no real factual dispute for a jury.

Waiting-time penalty. Up to 30 days of wages owed by an employer that willfully pays final wages late.

Whistleblower. An employee who reports what they reasonably believe is a violation of law, or who refuses to take part in conduct that would break the law.

REFERENCE

Index of war stories

Each case below is a published court decision summarized in this guide. Citations are provided so the decisions can be found and read in full. A later court or a new statute can change a decision's force; check before relying on any case.

01 *Guz v. Bechtel National, Inc.* (2000) 24 Cal.4th 317

02 *Dore v. Arnold Worldwide, Inc.* (2006) 39 Cal.4th 384

03 *Lazar v. Superior Court* (1996) 12 Cal.4th 631

04 *Abed v. Western Dental Services, Inc.* (2018) 23 Cal.App.5th 726

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06 *EEOC v. Abercrombie & Fitch Stores, Inc.* (2015) 575 U.S. 768

07 *Salas v. Sierra Chemical Co.* (2014) 59 Cal.4th 407

08 *Camp v. Jeffer, Mangels, Butler & Marmaro* (1995) 35 Cal.App.4th 620

09 *Troester v. Starbucks Corp.* (2018) 5 Cal.5th 829

10 *Augustus v. ABM Security Services, Inc.* (2016) 2 Cal.5th 257

11 *Mendiola v. CPS Security Solutions, Inc.* (2015) 60 Cal.4th 833

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28 *Grant-Burton v. Covenant Care, Inc.* (2002) 99 Cal.App.4th 1361

29 *Arias v. Raimondo* (2017) 860 F.3d 1185

30 *Gelini v. Tishgart* (1999) 77 Cal.App.4th 219

31 *Okoli v. Lockheed Technical Operations Co.* (1995) 36 Cal.App.4th 1607

32 *Soria v. Univision Radio Los Angeles, Inc.* (2016) 5 Cal.App.5th 570

33 *Brundage v. Hahn* (1997) 57 Cal.App.4th 228

34 *Hanson v. Lucky Stores, Inc.* (1999) 74 Cal.App.4th 215

35 *Higgins-Williams v. Sutter Medical Foundation* (2015) 237 Cal.App.4th 78

36 *Allos v. Poway Unified School District* (2025) 112 Cal.App.5th 822

37 *Jackson v. County of Los Angeles* (1997) 60 Cal.App.4th 171

38 *Richey v. AutoNation, Inc.* (2015) 60 Cal.4th 909

39 *Mayo v. PCC Structurals, Inc.* (2015) 795 F.3d 941

40 *Hernandez v. Hillsides, Inc.* (2009) 47 Cal.4th 272

41 *Ignat v. Yum! Brands, Inc.* (2013) 214 Cal.App.4th 808

42 *TBG Insurance Services Corp. v. Superior Court* (2002) 96 Cal.App.4th 443

43 *Barbee v. Household Automotive Finance Corp.* (2003) 113 Cal.App.4th 525

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55 *Circuit City Stores, Inc. v. Najd* (2002) 294 F.3d 1104

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TALK TO A LAWYER

If one of these stories sounds like yours

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