

## LEGISLATIVE/ADMINISTRATIVE

### California

#### New Law Confirms that Sexual Harassment Need Not Be Motivated by Sexual Desire

Governor Jerry Brown has signed into law SB 292 (Corbett), a bill that amends the Fair Employment and Housing Act to specify that sexually harassing conduct need not be motivated by sexual desire. The new law overturns *Kelley v. The Conco Companies*, wherein the California Court of Appeal held that a sexual harassment claim must be based on conduct that shows the perpetrator is acting based on sexual desire or intent, or is motivated by the victim's actual or perceived sexual orientation.

#### New Law Provides Leave to Emergency Duty Volunteer Firefighters, Reserve Peace Officers, and Rescue Personnel

Governor Jerry Brown has signed into law AB 11 (Logue), a bill that amends the Labor Code to permit an employee who performs emergency duty as a volunteer firefighter, reserve peace officer, or emergency rescue personnel to take a temporary leave of absence, not to exceed an aggregate of fourteen days per calendar year, for the purpose of engaging in fire, law enforcement, or emergency rescue training. Qualified employees who are discriminated against in connection with such leave are entitled to reinstatement and reimbursement for lost wages. The new law takes effect January 1, 2014 and applies to employers with fifty or more employees.

#### New Law Limits Employers' Ability to Recover Attorneys' Fees and Costs in Wage and Hour Cases

Governor Jerry Brown has signed into law SB 462 (Monning), a bill that amends section 218.5 of the California Labor Code with respect to the award of attorneys' fees in wage and hour cases. Under previous law, either an employee or an employer could seek recovery of attorneys' fees and costs as the "prevailing party" in an action brought for the nonpayment of wages, fringe benefits, or health and welfare pension fund contributions. The new law makes the award of attorneys' fees and costs to the *employer* contingent on a finding by the court that the employee brought the action in bad faith, even where the employer is the "prevailing party."

*This is Pettit Kohn Ingrassia & Lutz PC's monthly employment update publication. If you would like more information regarding our firm, please contact Tom Ingrassia, Jennifer Lutz, Jenna Leyton-Jones, Christine Mueller, Heather Stone or Ryan Nell at (858) 755-8500; or Andrew L. Smith, Jennifer Weidinger or Tristan Mullis at (310) 649-5772.*

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11622 El Camino Real, Suite 300  
San Diego, CA 92130  
Tel 858-755-8500 | Fax 858-755-8504

9841 Airport Boulevard, Suite 1100  
Los Angeles, CA 90045  
Tel 310-649-5772 | Fax 310-649-5777

[www.pettitkohn.com](http://www.pettitkohn.com)