Issue TWO

Law Office of Karen J. Sloat, APC ("LOOKS")

LOOKSnews

Caring For Clients While Pursuing Justice

Karen Cares...

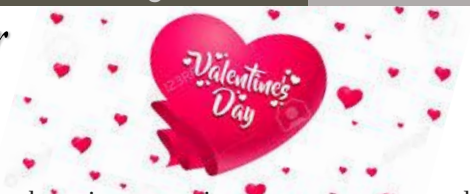
2021 finally arrived, and we made it through January! As our local businesses either reopen or have a chance to provide anew the services that we all enjoy and need, let's support them and each other in every way possible. In this month of love, we celebrate St. Valentine, an incredible human being who demonstrated unconditional love and sacrificed in many ways with an "others" focus.

At our firm, we sincerely want your success – personally and in your business ventures. We have invested most of the last 11 months in educating the community with webinars, written materials, manuals, free guidance and training. Our 2021 goal is to continue to help you know what is required in California, so you can stay healthy and out of trouble.

I'm reminded of some truisms that might encourage you as you look forward to recovery during 2021: "Hope that is seen is not hope; for who hopes for what they already see?" Now faith is the certainty of things hoped for, a proof of things not seen." (Romans 8:24; Hebrews 11:1) Although we cannot see the future, we can have hope and faith that it will be bright and successful!

~ Karen J. Sloat

What does Prop 22 Mean for Non-Driver Gig Workers?



The passage of Prop 22 allows companies like Uber, Lyft, and DoorDash to hire drivers as independent contractors and not to classify them as employees, despite the mandates in AB5 (see our website for more info). Drivers for these on-demand companies no longer receive the benefits and state protections that other gig workers, who are reclassified as employees under AB5, would receive. As a result, these companies can save a lot of money while utilizing gig workers without paying employment benefits, and exempted driver gig workers effectively own their own business. But isn't this a piecemeal effort to change a bad law? Why should it be fair that only on-demand companies with the funds to file lawsuits get to establish exemptions? Conversely, why should these drivers and other specifically-exempt gig workers (with great lobbyists) get to be contractors, when so many other gig workers want the same independence for their businesses?

On-demand companies forced to convert other types of contractors into employees to comply with AB5 may lobby the legislature to pass more bills that allow additional types of gig workers to be contractors. Other gig workers, like online tutors, massage therapists, security system testers, and freelance writers, as some examples, could also organize and lobby harder or file their own lawsuits to establish exemptions from AB5 for their occupations at a later date. California is still left with a mess, and most employers are still uncertain about how to classify workers.

With the gig economy consistently changing, knowing the labor laws that affect gig workers and gig companies is extremely important.

Will other on-demand companies in the California gig economy follow behind Uber, Lyft, and DoorDash in the pursuit to separate employees from independent contractors? If they do, will gig workers fight back harder than before to get employment benefits?

If you are a gig worker or an owner in an on-demand company – or a company that uses any independent contractors – and you have questions about your situation, the attorneys at the Law Office of Karen J. Sloat can help answer them and guide you through these uncertain times.

Check out the new LOOKS website www.KarenSloatLaw.com

Hello, Mr. Employer, there is a lawsuit on hold for you…

Twenty years ago, having a cell phone was considered a luxury. Today, 96% of adults in the United States own a cell phone. For many businesses, cell phones are an integral part of doing business. Some employers are taking a new approach to time-keeping, requiring their employees to use an application on their personal cell phones to keep track of work time.

With the influx of employees using their mobile devices for business purposes, employers must be mindful of the legalities surrounding such use. California Labor Code § 2802 requires employers to reimburse their employees for all expenditures, including the use of personal electronic devices.

Employers should be providing all employees who use their cell phones or electronic devices for work-related purposes a monthly stipend to cover the usage costs. In 2014, the California Appellate Court ruled that employers must cover the cost of an employee's work-related cell phone use. The exact percentage of what an employer must cover is not clear. However, the court held that employers must pay "a reasonable percentage." *(Cochran v. Schwan's Home Service, Inc.).*

Although some employees have unlimited cell phone plans and work-related usage produces no additional expense, employers must, nonetheless, reimburse their employees for any work-related cell phone use. It seems counter-intuitive to reimburse an employee for an expense they did not actually incur, but that is what the law requires.

The bottom line is, if employees use their cell phones for work-related purposes, they must be reimbursed for all usage. Employers should create procedures and policies for cell phone usage reimbursement before any issues arise.

"Labor" Laughs!

You've read and reread the email four, maybe five times. You finally have the distribution list typed into the "To" box. The clock is ticking. Your cursor is hovering over the send button, and your heart is pounding. What is causing so much anxiety? Nuclear codes? A breakup email? Classified intelligence? **NAH….**

You're sending an **all-staff email,** the three little words that make employees buckle with fear. The truth is, all-staff emails are ripe for disaster. And when you bunk it up, which you eventually will, it can cause anything from the mildest of embarrassment to major trouble.

So, before you hit the send button, make sure you read the email one more time!

Dangers of Boosting Profits by Skimping on Workers' Compensation

Employers always seek to maximize profits, which naturally includes containing costs. One expense category an employer should never skimp on is accurately reporting and paying Workers' Compensation insurance. Some employers fail to disclose the correct number of employees on their payroll by "forgetting" to report accurately or claiming they are independent contractors. Others re-imagine an employee's duties to make their job seem less risky carrying a lower premium, like classifying a property manager who performs manual labor as an outside salesperson. Dramatic savings can be had by such schemes, but you should resist the temptation of these shenanigans.

California incentivizes its citizens, and the lawyers they hire, to uncover such schemes and prosecute them. Of course, the California Workers' Compensation Act ("CWCA") requires all employers to provide workers' compensation insurance for their employees. It is a crime to make a false statement or conceal a material fact regarding the provision of that insurance, securing an insurance benefit, or statements regarding the employer's obligations. California extends criminal liability to persons other than those who submitted the false statements regarding the insurance claim or report. In other words, each person involved in the false claim or report has direct criminal liability exposure for insurance fraud, even if that person/entity did not submit the fraudulent claim.

The Insurance Fraud Prevention Act ("IFPA") makes it unlawful for an employer to fail to comply with its obligations under Cal. Ins. Code §§ 1871 (f) and (g). Misstating the number of employees who are to be provided workers compensation insurance or misclassifying them to improperly lower the premium is deemed a false claim submitted to an insurance carrier. A civil penalty of three times the value of the false claim, plus a penalty of between $5,000 and $10,000, can be levied for **each** false claim.

The IFPA authorizes any person who knows of such false claims or reports, such as the employee who has been deprived of a Workers' Compensation benefit because her employer submitted a false report or misclassified her work, to file a civil lawsuit against the business and all individuals who participated in the fraud. The IFPA awards the "whistleblower" with between 30 and 40 percent of the recovery against the fraudsters, plus they must pay the plaintiff's attorneys' fees.

California created this system to help ensure all employees are provided the full and proper insurance coverage they are entitled to if they are injured on the job. The draconian financial punishment an employer faces for trying to skimp on providing workers' compensation insurance is intentional. The cost of non-compliance with the WCA is designed to far outweigh the short-term savings an employer could enjoy by violating their WCA obligations.

Find us on Facebook

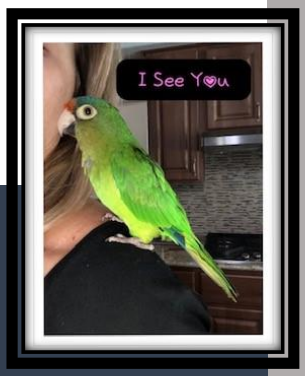
760-779-1313

www.KarenSloatLaw.com

From our Fur-amily to Yours,

Happy Valentine's Day

"Some Angels Choose Fur Instead of Wings"



Pets in the workplace has been a hot topic in various forms for a few years.

California employers may have a policy that allows employees to bring their dogs to work, either regularly or on occasion. Studies indicate that having pets around helps lower stress levels and also encourages more social behavior both among pet owners and their coworkers.

If you're considering adopting a pet-friendly workplace culture, be sure to consider the risks and implement thoughtful guidelines around the privilege of bringing a pet to work, whether as an everyday occurrence or as a reasonable accommodation.

National Take Your Dog to Work Day – June 25, 2021

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Or Current Resident

This is an advertisement.

COVID-19 Prevention Program

California Employer Alert:

All California employers are required to have a COVID-19 Prevention Program (CPP) that includes safety procedures to reduce the risk of exposure to an identified pandemic. This program is required in addition to an Injury and Illness Prevention Program (IIPP).

Our firm has created a CPP that outlines the specific control measures employers must put in place to protect employees, what the employees need to do to protect themselves and their coworkers, and how to prepare for a large number of absences should an employee or their family be affected by COVID-19. The CPP comes with an Employee Training video and an Employer CPP binder.

Sexual Harassment Prevention Training

California employers with 5 or more employees are **required by law** to provide two hours of sexual harassment prevention training to all supervisors and one hour of training to nonsupervisory employees. Contact our office at 760-779-1313 to schedule your training.