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Seyfarth Shaw Publishes 2010 Edition of *California Peculiarities* – The Definitive Guide to Employment Law Disputes in the Golden State

Book authored by Seyfarth employment partner David D. Kadue covers thicket of workplace laws and regulations that make California “the most burdensome state” to operate a business; new wave of “bounty hunter” and “sue your boss” lawsuits under state’s Labor Code Private Attorney General Act

LOS ANGELES (March 24, 2010) – With a bigger workforce than any other state in the country, and a legislature and judiciary that have continually expanded the scope of workplace rights, California has long been regarded as a peculiarly pro-employee venue for employment cases. So peculiar that since 1999 national law firm **Seyfarth Shaw LLP**, which counts over 125 Labor & Employment attorneys in the state, has produced an annual analysis of the state’s employment legal landscape entitled aptly, *California Peculiarities*.

The 2010 edition has just been published and once again, California has demonstrated just how singular a theater it is across dozens of areas of employment contests – from discrimination and harassment claims to privacy protection, family leave policies, third-party injury, independent contractor status, non-competes and of course, wage-and-hour issues. The book is a critical reference for any employer doing business in the Golden State.

“In countless areas – from qualifying for overtime pay to protecting employee vacation pay – California workers have protections that go beyond benchmarks established under federal law,” said **Lisa J. Damon**, Chair of Seyfarth Shaw’s Labor & Employment Department. “*California Peculiarities* has earned its place as a trusted guide to help employers navigate the legal complexities of the state with the most employees in the nation.”

California Peculiarities is principally authored by Seyfarth employment partner **David D. Kadue**, who works out of the firm’s Los Angeles office. “The one certainty we’ve seen since producing our first edition 11 years ago is that each version of the book is thicker than the last, reflecting new regulations, rulings and bills that add to the challenges for employers operating in the state,” Kadue said.

He noted that HR directors, general counsel, recruiters, executives and others who stay current with federal employment statutes often find themselves off-step in their grasp of California law. “With its history of progressivism combined with activist judges and lawmakers looking to exceed federal standards, California has become by far the most burdensome state in which to operate a business under labor laws,” Kadue explained.

Kadue reported that the volume of workplace litigation has especially boomed since passage of the California Labor Code Private Attorney General Act in 2004. It provides for employees to “stand in the shoes of the California Labor Commissioner” and seek civil penalties for violations of the labor code – to the tune of \$100 per pay period, per employee. As added incentive, the Act allows workers who bring actions to keep 25% of any penalties imposed on an employer.

He noted that the Act has generated a wave of so-called “bounty hunter” or “sue your boss” lawsuits, challenging employers for failure to comply with often obscure provisions of the state’s labor code. “Not surprisingly, it’s been an extremely lucrative litigation mill for the plaintiffs’ bar,” he said.

The 2010 edition of *Peculiarities* is the most exhaustive yet. Its 21 chapters shed light on every conceivable corner of workplace non-compliance – consider discussion of such topics as lactation accommodation and time off allowed for addicts and good deeds (under Leave and Accommodation Policies), HIV and drug testing

(under Privacy), pants suits equity and gender-identity (under Discrimination), and excessive cell phone and BlackBerry usage (under Health & Safety Legislation).

There are sections for unemployment benefits, records retention, workers' compensation, and this being California, even a chapter devoted to agricultural workers – see guidance on advertising for strike-breakers or the right to distribute leaflets in shopping malls. The book provides a scorecard of California's many specialized employment agencies as well as a useful glossary of the dozens of acronyms that populate the field – such as, the ALRA (California's Agricultural Labor Relations Act) or DLSE (California Division of Labor Standards Enforcement). And who could forget AWS (alternative week schedules) or QME (qualified medical examiner)?

Kadue has also taken pains to review recent employment cases before California's courts. While the Ninth Circuit Court of Appeals is known for its friendly posture to plaintiffs' rights – “and the circuit most often reversed by the U.S. Supreme Court” – he notes that California's Supreme Court is not nearly as pro-employee as most observers think.

An extensive preface to the 2010 edition spans recent judicial developments that underscore the book's title, revealing “strange, but true” oddities in California's employment law regime. Consider:

- The California Supreme Court has gutted a so-called Good Samaritan law, holding that employees (and potentially employers) can be liable for non-negligent, non-medical rescue efforts while on the job.
- The Court of Appeal has held that a retail store could be vicariously liable for an employee's violent attack on an annoying customer, on the theory that such behavior is a predictable risk of a customer-facing job.
- At least one court has allowed an employee to proceed with a Private Attorney General Act claim that she was denied “suitable seating” in the workplace.
- California courts have permitted employees to seek compensation, on a class-wide basis, for time spent undergoing security checks.

“Many employers can't help but have a double-take reaction when they learn about some of the precedent they're up against in our state – and the suits keep coming,” Kadue said.

Readers who take even a random walk through the book will probably agree with its conclusion: “Whether you consider California a leader in ‘progressive’ employment laws likely will depend on whether you are a plaintiff's attorney or an employer,” he writes. “One thing that any objective observer must acknowledge, however, is that California employment law often is peculiar.”

Seyfarth Shaw has over 750 attorneys located in ten offices throughout the United States including Chicago; New York; Boston; Washington, D.C.; Atlanta; Houston; Los Angeles; San Francisco and Sacramento; as well as Brussels, Belgium. The firm provides a broad range of legal services in the areas of labor and employment, business services, employee benefits and litigation. Seyfarth Shaw's practice reflects virtually every industry and segment of the country's business and social fabric. Clients include over 300 of the *Fortune* 500 companies, financial institutions, newspapers and other media, hotels, health care organizations, airlines and railroads. The firm also represents a number of federal, state, and local governmental and educational entities. For more information, please visit www.seyfarth.com.

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