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Seyfarth Shaw Issues 13th Annual Edition of *Cal-Peculiarities* - The Definitive 2012 Guide to California's Distinctive Employment Laws and Workplace Regulations

Seyfarth guide captures latest idiosyncrasies, including key updates on arbitration agreements, union picketing, human trafficking, genetic discrimination – even required workplace training for "patient lifting"

LOS ANGELES (May 10, 2012) — Leading law firm Seyfarth Shaw LLP announced today the release of its 2012 edition of *Cal-Peculiarities: How California Law is Different*, an authoritative guide to the ever-expansive rulings, regulations, and bills that have transformed California into the most employee- and plaintiff-friendly venue in the nation.

The 247-page guide is the work of the firm's California Workplace Solutions Group, which includes many of Seyfarth's 125 California-based labor and employment attorneys. During the past 13 years, *Cal-Peculiarities* has earned a national reputation as the must-have manual for executives, line managers, human resources professionals, general counsel, and others whose workplace practices may come under California jurisdiction.

First issued in 1999, *Cal-Peculiarities* has grown thicker by the year, reflecting the track record of state lawmakers and some judges to broaden the scope of worker protections to exceed benchmarks established under federal law. With the largest workforce of any state in the nation, decisions made in California often carry outsized, trend-setting influence across the country.

The latest edition of *Cal-Peculiarities* addresses legislative and judicial milestones from the past 12 months that put a new California stamp on significant labor and workplace issues, including:

- "Unconscionable" provisions which nullify service-contract arbitration agreements;
- Relative leeway accorded plaintiffs and defendants in employment discrimination cases;
- California's default view that workers are employees and not independent contractors – and ever-larger civil penalties for the willful misclassification of workers;
- Pro-employee tilts in the playing field regarding "stray remarks" and the same-actor doctrine.

Moreover, the 2011 transition in the governor's office from a pro-business Republican to a pro-labor Democrat also opened the door wider to novel legislative change, including:

- Requirements that larger companies publicize how they are keeping slavery and human trafficking out of their supply chains – an increasingly hot-button concern in light of well-reported problems within the factories of some of California's leading electronics manufacturers;
- Provisions describing multiple identifiers of sexual identity;
- Enhanced protections of genetic information under civil rights and housing and employment acts;
- Limits on use of job applicants' credit histories in making hiring decisions;
- Mandatory "safe patient handling" policies and "trained lift teams" at hospitals;
- Employer-friendly ban on requiring companies to use electronic verification of job applicants' right to work in the United States.

In 21 footnoted chapters, complete with a detailed and user-friendly glossary of labor-employment terms and statutory and wage order provisions, *Cal-Peculiarities* outlines both the backdrop and the fallout of 2004's Labor Code Private Attorney General Act, which allows employees to "stand in" for the state labor commissioner in bringing labor code actions and seeking civil damages from employers. David Kadue, the Editor in Chief, reports that this legislation sparked a boom in workplace litigation in California that shows few signs of slowing down – even if last month's closely watched and long-awaited *Brinker* decision by the California Supreme Court handed employers a victory with regard to employee rest and meal breaks.

"The *Brinker* decision is a shield for some employers, but it will simply slow and not stall the onslaught of cases brought by plaintiffs seeking classwide damages and pursuing 'bounty-hunter' lawsuits under the Private Attorney General Act, which allows workers to seek up to 25 percent of penalties imposed on an employer," Kadue said. "Only time will tell if *Brinker* is the first step in putting that genie back in the bottle. *Brinker* aside, California still places unprecedented legislative, administrative, and legal pressure on companies doing business there."

Cal-Peculiarities – so called due to the unusual protections enjoyed by California workers that extend far beyond federal benchmarks – addresses a broad variety of laws concerning labor and employment compliance in the Golden State: wage-hour laws, rights to organize, prohibitions on English-only rules, accommodations for lactating mothers and substance addicts, compensation due employees for time undergoing security checks, and limits on "Good Samaritan" actions, among many others.

Complicating the landscape further, California appellate courts continue to march to the tune of a special drummer, issuing extraordinarily pro-plaintiff decisions, as does the federal Ninth Circuit Court of Appeal, which covers California.

As Editor in Chief, Kadue reinforces the essence behind *Cal-Peculiarities* in the guide's 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," Kadue writes. "One thing that any objective observer must acknowledge, however, is that California employment law often is peculiar."

Seyfarth Shaw has more than 800 attorneys located in 10 offices throughout the United States, including: Atlanta, Boston, Chicago, Houston, Los Angeles, New York, Sacramento, San Francisco, and Washington, D.C., as well as internationally in London. Seyfarth Shaw provides a broad range of legal services in the areas of labor and employment, employee benefits, litigation, corporate, and real estate. The firm's clients include over 300 of the *Fortune* 500 companies, and our practice reflects virtually every industry and segment of the economy. For more information, please visit www.seyfarth.com.