

2021 Cal-Peculiarities Webinar

Series 2: Cal/OSHA ETS, Hero Pay, and Industry Specific New Rehire Laws

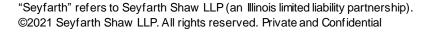
Chantelle Egan

Elizabeth Levy

Patrick Joyce

June 30, 2021

Seyfarth Shaw LLP





#### **Legal Disclaimer**

This presentation has been prepared by Seyfarth Shaw LLP for informational purposes only. The material discussed during this webinar should not be construed as legal advice or a legal opinion on any specific facts or circumstances. The content is intended for general information purposes only, and you are urged to consult a lawyer concerning your own situation and any specific legal questions you may have.

#### Seyfarth Shaw LLP

#### **Speakers**



**Chantelle Egan** 

Seyfarth Shaw
Partner
San Francisco
(415) 732-1106
CEgan@seyfarth.com



**Elizabeth Levy** 

Seyfarth Shaw
Partner
Los Angeles
(310) 201-1565
ELevy@seyfarth.com



**Patrick Joyce** 

Seyfarth Shaw

Associate
Seattle
(206) 946-4935

PJoyce@seyfarth.com

#### Agenda

O2 California COVID-19
Hazard Pay Ordinances



O3 Industry Specific Right to Recall Laws



#### **Important Changes**

- Quarantine/exclusion of fully vaccinated employees
  - Testing changes
- Face coverings for fully vaccinated employees indoors
- Face coverings for all employees outdoors
  - –Only required in "mass gathering"
- Physical distancing eliminated for all
  - Except in limited circumstances (outbreak or hazard)



#### **Important Changes**

- Employees who are not fully vaccinated may request respirators
  - No respiratory protection program required
  - -But employers must train employees
- Evaluate ventilation



#### **Still In Place**

- COVID-19 Prevention Program (CPP)
  - Cal/OSHA released updated model CPP on June 29, 2021
- Training
  - Cal/OSHA to release new training materials
- Employee screening
  - May be done off-site
- Exclusion of symptomatic and close contacts
- Outbreak reporting/requirements
- Notification requirements

#### California COVID-19 Hazard Pay Ordinances



#### **Overview**

- Grocery stores and pharmacies
  - Size limitations, some carve outs for convenience stores and smaller stores
  - Non-managerial employees, e.g. assistant manager
- Regular rate, sick pay rates, wage statements
- Some ordinances create paid time off options or obligations
- Record keeping requirements
- Notice requirements
- Regular vs. urgency ordinances, expiration and extensions
- To date, legal challenges unsuccessful

#### California COVID-19 Hazard Pay Ordinances



#### **California Locations**

- Alameda City
- Albany
- Alhambra
- American Canyon
- Benicia
- Berkley
- Buena Park
- Burbank
- Coachella
- Concord
- · Costa Mesa
- Culver City
- Daly City
- El Monte

- Glendale
- Irvine
- Los Angeles (City and County)
- Long Beach
- Malibu
- Millbrae
- Montebello
- Oakland
- Palm Springs
- Pomona
- Redwood City
- Richmond
- San Jose

- San Leandro
- San Mateo (City and County)
- San Francisco
- Santa Ana
- Santa Barbara
- Santa Clara County
- Santa Monica
- South Pasadena
- South San Francisco
- West Hollywood
- States and cities
   outside California
   are considering
   similar ordinances.

#### California's Statewide Right to Recall Law



#### **SB 93**

#### Only Applies to Certain Employers

- Hotel businesses
- Private clubs
- Event centers
- Airport hospitality operations & airport service providers
- Building service providers

#### Who is a covered "laid-off employee"?

- Worked 6 months in the year prior to
   January 1, 2020 for at least 2 hours a week
- Terminated (or furloughed) due to COVID-19

#### California's Statewide Right to Recall Law



#### **AB 93**

#### What Should A Covered Employer Do If It Is Ready To Rehire For Roles Lost Due To COVID-19

- Bring back "qualified" laid off employees in order of seniority
- Ok to contemporaneously issue offer letters
- 5 business days to respond
- If laid-off employee is not qualified for an open role, employer must provide a written explanation within 30 days

#### DLSE Exclusive Enforcement Jurisdiction

- \$1,000 for each impacted employee
- Hiring and reinstatement rights
- Front or back pay, along with benefits
- Effective April 16, 2021 through December 31, 2024

# Local Right to Recall Ordinances



## SB 93 Does Not Supersede the Local Ordinances

## Southern California

- City of Los Angeles
- City of San Diego
- Long Beach
- Pasadena

## Northern California

San Francisco

Oakland

City of Santa Clara

# CLE CODE

### Webinar Series Schedule



#### **2021 Cal-Peculiarities Webinar Series**

How California Employment Law is Different

- Series 1: COVID-19 Supplemental Sick Pay Wednesday, June 23, 2021 | Webinar Recording
- Series 2: Hero Pay/Industry Specific New Rehire Laws Wednesday, June 30, 2021 | Webinar Recording
- Series 3: Independent Contractor Intricacies
   Tuesday, July 6, 2021 | 1:00 p.m. 1:30 p.m. PST
- Series 4: Rounding and Meal Periods
  Tuesday, July 13, 2021 | 1:00 p.m. 1:30 p.m. PST

Click here to register for our upcoming webinars!

#### Cal-Peculiarities Resources



- Request Seyfarth's 2021 Cal-Peculiarities eBook
  - https://connect.seyfarth.com/34/64/landing-pages/2021cal-pecs---rsvp-blank.asp?sid=337242d8-d085-41c5b4e6-39b9233555d5
- Download Seyfarth's 2020 Cal-Peculiarities PDF
  - https://www.seyfarth.com/dir\_docs/publications/2021-Cal-Peculiarities.pdf?intlaContactId=1%2btNkRmBqzB53fy6X0 SBUQ%3d%3d&intExternalSystemId=1
- Sign Up For Seyfarth's California Labor & Employment Mailing List
  - connect.seyfarth.com/9/7/landing-pages/subscription.asp
- Subscribe to Seyfarth's California Peculiarities Employment Law Blog
  - www.calpeculiarities.com

#### **Contact Information**



**Chantelle Egan** 

Seyfarth Shaw
Partner
San Francisco
(415) 732-1106
CEgan@seyfarth.com



Elizabeth Levy

Seyfarth Shaw
Partner
Los Angeles
(310) 201-1565
ELevy@seyfarth.com



**Patrick Joyce** 

Seyfarth Shaw

Associate
Seattle
(206) 946-4935

PJoyce@seyfarth.com

# Thank You!