

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

Caring For Clients While Pursuing Justice

LOOKS news

Karen Cares...

“It’s a new dawn, it’s a new day, it’s a new life for me, and I’m feeling good!” Those song lyrics reflect our outlook for 2023 don’t they, to some extent? So many new opportunities are ahead for us as individuals or business owners, if we just look up and out. 41% of employees who quit their job during the Great Resignation regret it, and many more are now seeking employment. This issue celebrates new workplaces in 2023. May your workplace be excellent in 2023!

~ **Karen J. Sloat**



Introducing One of Our Star Attorneys

Please let us introduce you to Craig A. Sterling, a senior attorney in our Litigation Division. As a fairly recent transplant from the Bay Area, Mr. Sterling and his family are loving the Coachella Valley as home. The LOOKS staff enjoys Craig’s wit and sense of humor, and he’s the epitome of a team player. Our clients really appreciate Mr. Sterling’s advocacy and skill – whether he’s arguing a motion or counseling clients through difficult situations.

Mr. Sterling has over 23 years of California litigation and trial experience. He has tried and second-chaired jury and bench trials in various practice areas, including commercial litigation, wage and hour matters, and criminal law. Mr. Sterling has also successfully represented individuals on a *pro bono* basis and volunteered for nonprofit organizations for many years.

Mr. Sterling currently represents our firm’s large corporate employers, small businesses, and employees in wage and hour, wrongful termination, discrimination, and harassment matters. He is a caring and zealous advocate who pursues justice with excellence and integrity, and we’re so glad to offer his unique services to our clients.



It’s time to update your handbook, or get a new handbook that complies with 2023 laws. We offer tailored handbooks for your business, in your industry, with your policies. This year we have a new, clarified Leave of Absence Manual for quick reference by employees and employers. Ask for our Handbook Package details today!



Ready for 2023 training under the new laws?

We offer in person or online sexual harassment and abusive conduct prevention training for supervisors and subordinates at convenient times.

Mandatory Bereavement Leave? When? How?

Further expanding protected employee leaves, California now requires private employers with 5 or more employees to provide up to 5 days of bereavement leave for a covered family member's death. Assembly Bill 1949, effective January 1, 2023, does not require paid leave but does mandate the employee's job is protected during leave, and applies to employees who work at least 30 days before the leave starts.

Before now, employers had the option of providing any bereavement leave. Other than California, only Oregon, Illinois, and Maryland have state bereavement leave laws covering private employers.

AB 1949 specifies that the employee must be given leave for the death of family members defined as a spouse, child, parent, sibling, grandparent, grandchild, state-registered domestic partner, or parent-in-law. An employee does not have to take the 5 days of leave consecutively, but can take it intermittently, as long as leave is "completed within three months of the date of death of the family member." For example, an employee could take three days immediately upon a family member's passing, followed by two days for a memorial service weeks later.

Significantly, the new law does not limit employees to 5 days of bereavement leave per year or limit how much bereavement leave an employee may take in a year. This means an employee who suffers, tragically, more than one covered family member's death in a year can take multiple leaves of up to 5 days off per death.

An employer may require documentation of a family member's death within 30 days of the first day of the leave – for example, a death certificate, a published obituary, or written verification of death, burial, or memorial services from a mortuary, funeral home, burial society, crematorium, religious institution, or governmental agency, but AB 1949 also requires the employer to maintain the employee's documents as confidential.

Employers cannot discriminate against, discharge, demote, fine, suspend, or expel an employee for exercising the right to bereavement leave, nor can an employer interfere with the leave or refuse to hire an individual for seeking such leave.

Takeaway: Employers without a bereavement leave policy should adopt one, while employers with an existing policy should revise it to comply with AB 1949.

"Labor" Laughs!



-I just lost my job as a psychic. I did not see that coming.

-I quit my job working for Nike. Just couldn't do it anymore.

-Interviewer: What's your biggest weakness? Me: I don't know when to quit. Interviewer: You're hired. Me: I quit.

-Inspecting mirrors is a job I could really see myself doing.

Pay Transparency and Pay Data Reporting Made Simple

We all want equal pay for all persons, regardless of their race, ethnicity or gender. Senate Bill 1162, effective January 1, 2023, amended California's Equal Pay Act and requires "pay transparency" for employers with 15 or more employees and additional pay data reporting for employers with 100 or more employees. Employers with 15 to 99 employees are now required to list a pay scale, or range of wages, for every position they advertise, even through a third party advertiser. Upon an employee's request about their own position, these employers must disclose their pay scale for that position, but not the exact salary of each individual in the position. Although smaller employers do not need to report pay data to the government (yet), they must keep records of employees' titles and wage rate history.

Employers with 100 or more employees already had reporting obligations, but those are expanded. Before Senate Bill 1162, these companies had to report to the EEOC the number of employees in each establishment by race, ethnicity, and sex within each job category's pay band during the prior year. After Senate Bill 1162, these companies must – by the second Wednesday in May annually – report to the California Civil Rights Department (CRD) the median and mean hourly rate for each job category broken down by race, ethnicity, and sex for both traditional employees and those hired by labor contractors; separate this pay data for each employee hired through labor contractors (e.g., staffing agencies); and disclose the owners of all labor contractors used to supply workers. The first pay data reporting deadline is on May 10, 2023.

Late or no reporting triggers a possible civil penalty imposed by the CRD, for the first violation up to \$100 per employee, and for subsequent violations up to \$200 per employee. The Labor Commissioner can enforce additional penalties from \$100 to \$10,000, for certain violations.

Do you use a labor contractor? Let us make sure your contract requires the contractor to comply with SB 1162, so you are not penalized.



760-779-1313

www.KarenSloatLaw.com

Welcome to our new LOOKS employees, who introduce special skillsets into our law practice. Come visit our offices, where these legal eagles use their talents to care for clients while pursuing Justice!



Ruby Guzman
Junior Paralegal



Steven Galloway
Paralegal



Cassia Hall
Paralegal



Madeline Zamora
Receptionist



Benjamin Benitez
Marketing Assistant

How Do You Respond to "Quiet Quitters?"

According to a Gallup survey, half of the country's employees define themselves as "quiet quitters," or people who get the job done without going above and beyond. Quiet quitting has been in the news recently to describe a trend of employees only doing the bare minimum at work. Some describe it as setting boundaries and not doing work beyond what you were hired to do and for what you are being paid. Employers ask us whether employees can refuse to do work if it is not in their job description. However, a typical job description does not create a contract and only describes a general overview of duties the worker is expected to perform. So how do you handle those just "getting by?"

This phenomenon is a good reminder for employers to review job descriptions to ensure they are properly drafted, reflect the detailed duties the employee is expected to perform, and explain that the employer may change duties over time. Generally speaking, an employee has no legal right to refuse to perform tasks required by the employer because they are not part of job descriptions.

What can employers do to address quiet quitters? Here are a few considerations:

1. Similar to approaching any poor performance, employers may counsel employees about substandard performance and, if necessary, put them on a performance plan.
2. We encourage employers to communicate with employees they believe are quiet quitting, to interact about the reasons, offer solutions and evaluate whether their attitude can change.
3. Some commentators have said "QQ" work is not "cause" to fire. However, if it is clear the employee is a quiet quitter, the employer can terminate for substandard performance. This situation is no different from terminating an employee for poor performance.

We can assist employers in preparing job descriptions and managing quiet quitters in a legally sound manner. The "Great Resignation" appears to be ending for 2023 so more employees are motivated to get back to work – maybe for your company!

J A N U A R Y

Do you know how January got its name?

As Pontifex Maxumus around 45 B.C., Julius Caesar reformed the Roman calendar that was based on a solar year to add Januarius (January) to the end of the year. Named after Janus, the Roman god of doors, gates, beginnings, and transitions, Januarius matched the myth that Janus looked back to the past and forward to the future, at the same time.

January and February remained a time of reflection, peace, new beginnings, and purification. Later emperors tried to name different months after themselves, too, but the names did not survive those emperors! At some point, January moved to the first month of the year.

In 1582, the Catholic Church adopted the Gregorian Calendar that most of the world uses now, supplanting the Islamic Calendar as well as other religious-based calendars throughout the world.

Or Current Resident

This is an advertisement.



2023 CALIFORNIA MANDATORY POSTINGS

California employers must post several notices in their workplace and distribute various pamphlets informing employees of their rights. Effective January 1, 2023, 8 out of 18 required notices must be updated, with these titles: California Minimum Wage; Family Care and Medical Leave and Pregnancy Disability Leave; Your Rights and Obligations as a Pregnant Employee; California Law Prohibits Workplace Discrimination and Harassment; Transgender Rights in the Workplace; Know Your Rights: Workplace Discrimination is Illegal; Your Rights Under USERRA; and Safety and Health Protection on the Job (Cal/OSHA). Also, two required CA pamphlets are updated: Unemployment Insurance; and Sexual Harassment. Remember, even remote employees must receive required postings and pamphlets. *Contact us for more information.*



Why Can't I Pay/Get a Salary?

Often employers and employees want wages paid as a salary, without overtime, even when the employee doesn't fit a legal exemption from overtime that allows the employer to pay a flat rate through payroll. We rarely recommend that plan. A salary, often a flat rate, does not reflect the employee's actual hours worked, and only compensates the employee for 8 hours a day. Employers tend to relax about exact timekeeping and employees tend to work after scheduled hours, which can lead to overtime and other wage and hour claims. Also, hourly pay is more clear and concise, and leads to fewer assumptions.