



Prentice|LONG PC partners left to right: Sophia Meyer, Amanda Uhrhammer, Margaret Long and David Prentice.



Prentice|LONG PC -
a law firm founded on
the principle of service.



SPRING INTO ACTION

Spring has come again, bringing with it the beauty of new leaves, flowers and sunshine. Spring is always the agent of change and growth and 2022 will also be a good year for change and growth at *Prentice|LONG PC*. Sad to say, our first change is the loss of Michelle Fletcher to the attractions of San Diego. Michelle and her family have relocated to this beautiful city and we sincerely hope they prosper in their new environment. She will be missed, having been one the firm's original staff.

However, the firm continues to grow. The County of Fresno approached us about defending them in a couple of delicate lawsuits, as well as join their outside counsel panel for liability cases. In addition, Kern County retained the firm to assist in special assessment appeals as an ongoing project to relieve a backlog in appeals caused by the COVID shut downs. We have also added Chester PUD and The City of Red Bluff to our client list.

The partners continue to add training to their workload. David and Margaret will be presenting to the California Special District's Association regarding elected officials in June and Margaret just completed a training at the Trindel Law Enforcement Meeting. It looks like a nice spring here at PLPC, we hope yours is equally bright.

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Clarified Legal Framework for Whistleblower Retaliation Claims

By: Caitlin Smith, Associate



Employers should be aware of a recent clarification to state law governing whistleblower retaliation claims. Until the California Supreme Court’s recent decision in *Lawson v. PPG Architectural Finishes, Inc.*, 12 Cal.5th 703 (2022), there was conflicting precedent regarding the proper method for presenting and evaluating a claim of whistleblower retaliation. Section 1102.5 of the Labor Code provides that once an employee-whistleblower establishes by a preponderance of the evidence that retaliation was a contributing factor in their termination, demotion, or other adverse action, the employer then bears the burden of demonstrating by clear and convincing evidence that it would have taken the same action for legitimate, independent reasons. But since Section 1102.5 became law, some courts have continued to instead apply the burden-shifting framework laid out in *McDonnell Douglas Corp. v. Green*, 411 U.S. 792 (1973), which first requires the employee to establish a prima facie case of unlawful discrimination or retaliation. Next, the employer bears the burden of articulating a legitimate reason for taking the challenged adverse employment action. Finally, the burden shifts back to the employee to demonstrate that the employer’s proffered legitimate reason is a pretext for discrimination or retaliation. Noting this conflict, the United States Court of Appeals for the Ninth Circuit asked the California Supreme Court to decide which of two frameworks governs whistleblower retaliation claims. The Court concluded that the framework prescribed by the Labor Code is the proper standard and that employees no longer need to satisfy the *McDonnell Douglas* test to successfully bring a case of unlawful retaliation.

In reaching this conclusion, the Court noted that Section 1102.5 provides whistleblower protections to employees who disclose wrongdoing to authorities, reflecting the broad public policy interest in encouraging workplace whistleblowers to report unlawful acts without fearing retaliation. The Legislature amended the Labor Code’s whistleblower protections in response to a series of high-profile corporate scandals and reports of illicit coverups, such as by Enron, WorldCom and others. The amendments were designed to encourage earlier and more frequent reporting of wrongdoing by employees and corporate managers and by expanding employee protections against retaliation. Those amendments added a procedural provision, section 1102.6, which states in full: “In a civil action or administrative proceeding brought pursuant

to Section 1102.5, once it has been demonstrated by a preponderance of the evidence that an activity proscribed by Section 1102.5 was a contributing factor in the alleged prohibited action against the employee, the employer shall have the burden of proof to demonstrate by clear and convincing evidence that the alleged action would have occurred for legitimate, independent reasons even if the employee had not engaged in activities protected by Section 1102.5.” While some California courts applied this standard to whistleblower retaliation claims, other courts continued to rely upon the *McDonnell Douglas* framework.

The Court determined that Section 1102.5 provides a complete set of instructions for the presentation and evaluation of evidence for both parties in whistleblower retaliation cases and is not merely the codification of an affirmative defense. The Court noted that Section 1102.6 requires whistleblower plaintiffs to show that retaliation was a “contributing factor” in the adverse employment action, meaning plaintiffs may satisfy their burden of proving unlawful retaliation even when other legitimate factors also contributed to that action. The Court concluded that the *McDonnell Douglas* test was not written for the evaluation of claims involving multiple reasons for the challenged adverse action.

The end result of *Lawson* is that employees bringing whistleblower retaliation claims under section 1102.5 must show by a preponderance of the evidence that retaliation for their protected activities was a contributing factor in a contested employment action. Plaintiffs need not satisfy *McDonnell Douglas* to meet this burden. Once a plaintiff has made this showing, the burden shifts to the employer to demonstrate, by clear and convincing evidence, that it would have taken the action in question for legitimate, independent reasons even had the plaintiff not engaged in protected activity. This framework is less onerous for plaintiffs to meet. *Lawson* provides clarity to all parties regarding how courts should analyze whistleblower retaliation claims under state law, ending years of confusion and conflicting precedent. Employers should be cognizant of this clarified framework going forward to avoid potential liability for employment decisions where an employee might be considered to have engaged in whistleblowing activities. If you have any questions about this recent legal development, please don’t hesitate to reach out to our firm for assistance.



Social Workers Are Essential...to PLPC!

By P.J. Van Ert, Associate

During the month of March, *Prentice|LONG PC* attorneys and staff highlighted the hard work of our clients engaged in social work and social services. Every year, March is dedicated as Social Worker's Recognition Month. Within that month, the third Tuesday is social worker's recognition day. The theme for 2022 was "The Time is Right for Social Work," according to the National Association of Social Workers.

Social workers are **professionals who aim to enhance overall well-being and help meet the basic and more complex needs of communities and people**. Social workers work with many different populations and types of people, particularly focusing on those who are vulnerable, oppressed, and living in poverty.

Social workers are essential workers throughout every community. Within a career in social work, **individual social workers play an**

essential role in the bigger picture of how our society treats its most vulnerable people.

Social workers work in child welfare, adult protective services, behavioral health and public guardian offices. Most social workers begin their careers with a degree in social work or related fields, and some complete a Master's Degree in social work. Field work, internships, and on the job training are also vital components in the field of social work.

Historically, Jane Addams is credited as being the first social worker. She was honored with the Nobel Peace prize in 1931. The first class for social work was offered at Columbia University in 1898. Social work is said to have begun to address the needs of early immigrants to the United States.

Here at *Prentice|LONG PC* we value our relationships with the social workers working in each of our County jurisdictions. We are proud to represent social workers in Court and assist in the important work for the communities they serve.

SPOTLIGHT - Caren Miller, Senior Legal Assistant

You may recognize the friendly voice of Caren Miller when contacting *Prentice|LONG, PC* as she has been an integral part of the Legal Assistant team since October of 2018.

In addition to being a notary and preparing many legal documents for multiple attorneys, Caren also oversees the firm's litigation files, ensuring that documents are timely filed and served, pre-trial deadlines are met, and files are properly organized. Recently promoted to Managing Legal Assistant, Caren also oversees the Legal Assistant projects and participates in some of the tasks associated with the management of the Firm.

When asked what she most likes about working at PLPC, "I am surrounded by a team of highly driven and successful attorneys who genuinely care about those they work with and the clients they serve. I have learned so much from them in the three years I have worked here, and like how they encourage me to take on new and challenging projects."

Though born in Southern California, Caren was raised in Idaho's Treasure Valley, and has traveled the world, living in many different locations throughout her life. She has resided in Shasta County for 28 years, and has been married to her husband, Jeffrey, for eight years. Together they share family time with their five adult children and new puppy, Kai. You may find Caren enjoying the area waterways on her ski boat or sharing dinner with good friends at the Elks Lodge in Redding, where she has been a member for 12 years. The law firm of *Prentice|LONG, PC* would like to sincerely thank Caren for her dedicated years of professional service and incredible work product! We are so grateful she is a part of our team.

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PA|PG|PC 2022 Spring Conference Key Takeaways

By: Gretchen Dugan, Legal Assistant



What happens when a county resident passes away without a family member present, or when the next of kin is currently unknown? Who is in charge of picking up the puzzle pieces and putting them together in order to ensure a descendant's last wishes are carried out? These questions and more were brought to the forefront and answered in March at this year's annual PA|PG|PC Conference held in Sacramento.

Our PLPC legal assistants (Kellie Haigh, Caren Miller, and Gretchen Dugan) and associate attorney P.J. Van Ert had the pleasure of attending this informative and uplifting event. With about 300 attendees present at this particular conference, the event takes place biannually to inform local governmental agencies on the updates and current legislation that affects California Public Administration ("PA"), Public Guardian ("PG"), and Public Conservatorship ("PC") matters at hand. Of course, last year this conference did not occur due to Covid-19 concerns for the health and safety of the public.

The spring conference took place over the span of four days, covering a range of topics from reading possible witnesses' body language (should a court hearing be necessary), mental health crisis teams, conservatee investment planning, firearms handling, Public Administration protocol, and more. We were able to interact and brainstorm not only with the current counties we represent, such as Siskiyou, Tehama, Modoc, Trinity, and Lassen, but we were able to network with many other counties like Ventura, San Francisco, and Mendocino, to name a few.

Sacramento's very own Mobile Crisis Support Team ("MCST") performed as a small group of

keynote speakers at this conference. MCST is a crisis intervention team that has been in motion for six years now. Senate Bill ("SB") 82, established in 2013 as the Mental Health Wellness Grant, has made it possible for MCST to remain an effective group of support specialists whose main goal is to help mental health patients with crisis situations, such as suicide calls, domestic violence, and sexual assaults in order to help facilitate their recovery and whole person wellness. This type of program is essential and related to Public Guardian and Public Conservatorships in terms of being a partnership program that assists vulnerable adults, possibly conservatees, by protecting them from self-harm, exploitation, and abuse.

Another keynote speaker, Scarlet Hughes, Executive Director for California's PA|PG|PC Association, reflected on an important legislative update regarding SB 928. This bill, which gives legislative protection to public agencies and private investors, would provide more funding to these public agencies, specifically raising the Public Administration statutory fees.

This conference definitely proved to establish the core connection between PA, PG, PC, and also APS (Adult Protective Services), as well, in that each one of these public agencies are partnered with one common and important mission: to act in the best interests of their clients as the fiduciary of their person and estate.

Please feel free to contact PLPC for more insight on unprecedented amounts of federal funding available to public agencies now through allocations from the American Rescue Plan.



NEWS

LEGISLATIVE UPDATE

State legislators have introduced a number of Bills dealing with amendments to the Ralph M. Brown Act. These proposed bills range from addressing civility, remote participation, public access, to name a few.

The current list of Brown Act Bills introduced this year are as follows:

SB 1100, would clarify the rules around when individuals can be removed for willfully interrupting a meeting. After a warning is issued a person could be removed for behavior “that substantially impairs or renders infeasible the orderly conduct of the meeting in accordance with law.”

AB 1944, would allow public officials to attend Brown Act meetings remotely without being required to publish their address or open their remote location to members of the public. A publicly accessible live video stream with ability for public comment/participation is required to take advantage of this flexibility.

AB 2449, would allow local officials to attend meetings remotely as long as there is a quorum in the primary location and all remote members participate by both audio and visual technology with public comment/participation via live video/audio stream.

AB 2647, gives more flexibility to make documents provided to governing board members available to the public online if they had been distributed outside of standard business hours.



The bill language is still under review and will likely be revised throughout the legislative process so it is important that municipalities weigh in with CSAC, RCRC and Ca League of Cities regarding your input into these important matters.



NEW CLIENTS

Prentice|LONG PC welcomes our newest clients.

Fresno County
Kern County
Chester Public Utility District
City of Red Bluff

Click [here](#) to see a list of all our clients.

MORE NEWS

We update our website news section on a weekly basis, click [here](#) to see what else is going on with *Prentice|LONG PC*.