

An aerial photograph of a mountain range with a valley in the foreground. The mountains are covered in dense green forest, and the valley floor is a mix of green fields and brownish soil. The sky is a pale, hazy blue. The overall tone is natural and scenic.

LCW

LIEBERT CASSIDY WHITMORE

FIRM RESUME

www.lcwlegal.com

With offices in Los Angeles, San Francisco, Fresno, San Diego and Sacramento, Liebert Cassidy Whitmore is proud to have provided advice, training and representation to law enforcement management since 1980. Our lawyers are experts in the labor and employment issues faced by law enforcement agencies every day, and leaders in recognizing and confronting emerging trends. Equally important, our lawyers are accessible. An experienced attorney is always available to answer your questions, and assist you with issues as they arise.

Law Enforcement Representation

On a daily basis, LCW provides advice, counsel and representation to police chiefs, sheriffs, and their respective executives in a variety of issues that impact professional law enforcement administrators. A number of LCW attorneys have had the privilege of representing law enforcement professionals for 30 or more years. Having proudly earned the trust and respect of several generations of police chiefs, LCW accommodates the emergency nature of law enforcement related employee relations by being readily accessible to assist in addressing issues of administrative leave, administrative/criminal investigations, and investigative methodology and strategic planning. With its immense law enforcement related experience, LCW brings both legal acumen and practical knowledge to its client interactions. Finally, LCW may well be unique in the state, in having a senior partner who has not only represented law enforcement for 30 years, but who had 15 years of experience in representing police associations. This unique insiders knowledge is invaluable in effectively addressing issues confronting management. LCW is extremely well situated to become your daily counsel regarding these sensitive matters.

Internal Affairs Investigations

Our attorneys are experts in the Public Safety Officers Procedural Bill of Rights and are always available to provide timely advice to your internal affairs investigators. We routinely review investigations in order to assess the strengths and weaknesses of investigations and any discipline which may result.

Our lawyers have obtained important appellate court victories including the following recent cases: *Upland Police Officers Association v. City of Upland* (2003) 111 Cal.App.4th 1294; *Gilbert v. Sunnyvale* (2005) 130 Cal.App.4th 1264; *Steinert v. Covina* (2006) 146 Cal.App.4th 458; *Benach v. County of Los Angeles* (2007) 149 Cal.4th 836; and *Los Angeles Deputy Sheriffs v. County of Los Angeles, Los Angeles County Sheriff's Department et al* (2008) 166 Cal.App.4th 1625..

We continue to publish articles and present workshops on the topic of internal affairs investigations. Our workshops identify the key components of a successful investigation including how and when to begin an investigation, who should conduct the investigation, how to maintain confidentiality, how to organize and execute an effective investigation, and how to evaluate the facts and take corrective action once the investigation is completed.

Pitchess Motions

Peace officer personnel records are confidential as a matter of law. Our firm understands the importance of protecting the confidentiality of personnel records, and our lawyers are highly skilled at opposing *Pitchess* Motions in both civil and criminal cases. We ensure that personnel records are safeguarded to the fullest extent possible under the law.

Disciplinary Hearings

Every disciplinary case is serious, but those which occur in the law enforcement context are not only serious but also complicated by the special protections afforded to peace officers by laws including the Public Safety Officers Procedural Bill of Rights Act. Our lawyers have successfully handled hundreds of disciplinary cases over the years.

Negotiation Services

Members of Liebert Cassidy Whitmore have successfully negotiated hundreds of labor agreements for law enforcement agencies across the state. Negotiations are conducted according to the particular philosophy and circumstances of a given agency, and the agreements negotiated have run the gamut from brief understandings limited to benefit items to comprehensive labor agreements that define substantially all terms of employment. These comprehensive MOU's, through management rights, waivers and "zipper" type clauses, provide protection to management's ability to manage the agency. Members of the firm are experienced in collaborative/interest based bargaining techniques as well as the more traditional labor negotiations approach.

In addition to conducting negotiations for public employers, we continually work with public agencies that employ staff personnel to do their own negotiations. This arrangement has involved all aspects of consultation and related services, including writing initial bargaining proposals, reviewing counter-proposals, providing training and advice concerning negotiating strategies, and giving general advice when particular problems arise.

Our Approach to Negotiations

- We work with and for the chief administrative official and his/her designated staff, and through him/her with the Governing Body. We provide professional advice to assist the agency in determining its policy goals and objectives, which then become our goals and objectives; we see our job as applying our best efforts and skills to achieving them.
- We believe in carefully organizing for negotiations, with goals and objectives kept well in mind. The negotiating process, we believe, consists of definable stages, from preparatory activities to the preliminary bargaining phases, "hard bargaining," and finally to agreement, impasse procedure, or work action. Each stage of the process requires an organized approach in order to maximize the chances of attaining bargaining objectives.
- Our philosophy is not one of "union busting," but rather one of using a professional approach that seeks to achieve and maintain professional relationships, notwithstanding the adversarial aspects of the process.
- We call to the attention of our clients that in return for agreeing to competitive benefit adjustments, it is reasonable for them to seek to contractually protect and maximize their management discretion to set standards of service and retain the prerogative to direct, assign, and stimulate employees to meet them.
- We see the conclusion of negotiations as the beginning for establishing a constructive employer-employee organization-employee relations structure, which requires management training and ongoing involvement with agency management on our part.
- While one member of the firm handles a particular negotiating unit, at least one other designated attorney will be kept advised so that at all times the client has access to an attorney who is familiar with the status of the situation in each bargaining unit.

Local Agency Employment Law Services

We have worked closely with city attorneys, county counsels and general counsels, and have directly handled the representation for our local agency clients in literally hundreds of legal proceedings before civil service and personnel boards, arbitrators, the Public Employment Relations Board (PERB), State and federal EEO and other administrative agencies and the courts. These proceedings have covered the full spectrum of employer-employee relations matters, including such matters as civil service appeals, recognition and unit representation matters, unfair labor practice charges and related negotiating issues, employment discrimination matters, pension and disability issues, wrongful termination and Fair Labor Standards Act claims.

Audit Services

The Firm has extensive experience in revising and developing general orders, policies and procedures. We are available to review individual policies and/or update entire manuals.

Liability for violations of the Fair Labor Standards Act (FLSA) is a significant concern for law enforcement agencies. Public safety officers work more overtime than almost anyone else. Members of the firm conduct comprehensive audits regarding agency's compliance with the FLSA. Additionally, the firm publishes a comprehensive guide, "Fair Labor Standards Act: A Public Sector Compliance Guide," that serves as a reference to agencies across the country.

Retirement Practice

The firm provides advice and counsel to public agencies regarding the laws and regulations of public employee retirement plans, including PERS, the County 1937 Retirement Act, and local agency retirement laws, as well as on retiree health insurance issues. The firm defends public agencies that are sued regarding retirement issues, defends public agencies and their employees and retired employees in retirement in cases where PERS acts to reduce benefits, and represents public agencies in disability and industrial disability retirement appeals. The firm helps agencies defend against PERS and other retirement board audits and, where necessary, files administrative appeals to challenge any negative audit findings.

Members of the firm advise on all issues related to PERS, 1937 Act and STRS benefits. For example, we provide advice and counsel to clients regarding retirement formulas, the rules on reportable compensation, PERS and 37 Act contract amendments, disability retirement procedures and obligations, service credit, GASB issues, unfunded liabilities, retiree health benefits, vested rights and elected official benefits.

Retirement issues have major impacts on agency labor relations. The firm provides strategy and guidance during negotiations in regards to retirement benefits, including acting as chief negotiator. We review agency policies and collective bargaining agreements/memoranda of understanding to ensure that they comply with applicable law.

We represent agencies in retirement related administrative appeals and litigation, and have assisted agencies defend claims of underfunding as well as fiduciary obligations.

Litigation Services

Liebert Cassidy Whitmore attorneys strive to prevent employment disputes before they arise through education, training, audits, advice, planning, and cooperative employer-employee relations. When employment disputes do arise, our defense efforts are designed to meet each client's particular needs, goals, and budget.

We specialize in representing law enforcement agencies in the defense of legal actions and enjoy the reputation of a results-oriented, successful litigation firm. We are experts in all phases of litigation in both federal and state courts: pleading, discovery, motion practice, alternative dispute resolution, settlement and trial.

Our particular expertise is the defense of law enforcement agencies in actions brought by employees, former employees, applicants or other individuals alleging employment related claims such as violations of the California Fair Employment and Housing Act; Federal Civil Rights Acts (e.g., section 1981 and 1983 claims); Americans with Disabilities Act; Age Discrimination in Employment Act; Fair Labor Standards Act; Meyers-Miliias-Brown Act; Family and Medical Care Leave Acts; wrongful termination; and violation of state and/or federal constitutional rights such as due process, First Amendment and privacy rights.

The firm's attorneys have handled a number of cases that have culminated in jury trials resulting in defense verdicts. These cases included claims for violation of constitutional rights; violation of the Age Discrimination in Employment Act; violation of the physical handicap provisions contained in the Fair Employment and Housing Act; reverse discrimination; sex discrimination; sexual harassment; national origin discrimination; age discrimination; intentional infliction of emotional distress and retaliation claims under both state and federal laws.

Consulting and Training Services

One of the firm's greatest sources of accomplishment comes from its record of success in counseling and advising its clients on the best ways to avoid becoming a party to adversary proceedings. We were "pioneers" in the training field by creating "consortiums" of agencies. The thirty-two Employment Relations Consortiums (ERCs) are comprised of over 500 cities, counties, schools, community college districts, and state universities as well as other public sector agencies.

As part of our ERC services, we provide ongoing training on current developments in labor relations and personnel law on subjects including negotiation strategies; performance evaluations; disciplinary actions; employment discrimination, including harassment and ADA issues; Family and Medical Care Leave Acts; effective supervision; and grievance administration. Experience over the years confirms that not only have the member agencies found the consulting and training services helpful, but an invaluable opportunity for the exchange of ideas and information between agency management.

The firm provides individual training services to law enforcement agencies on a half-day or full-day basis. We customize these training programs to the precise needs of the client. For example, we provided on-site training programs to employees and/or supervisors and managers of over one hundred agencies last year.

Members of the firm make presentations on employment relations law issues to a variety of professional organizations including:

American Arbitration Association
American Bar Association
California Background Investigators Association
California County Counsels Association
California Fire Chiefs Association
California Law Enforcement Association of Records Supervisors
California Peace Officers Association
California Peace Officers Standards and Training (POST) Academy
California Police Chiefs Association
California Public Employer Labor Relations Association
California State Association of Counties
California State Bar Labor and Employment Law Section
California State Sheriffs Association
Fresno Police Academy
International Personnel Management Association
League of California Cities
Los Angeles County Bar Association Labor and Employment Law Symposium
National Employment Law Institute
National Institute of Municipal Law Officers
National Public Employer Labor Relations Association
Public Agency Risk Management Association
Professionals in Human Resources Association
Southern California Labor Relations Council
Southern California Personnel Management Association

An aerial photograph of a mountainous region, likely in the Sierra Nevada mountains. The terrain is rugged with various shades of brown, tan, and green, indicating different vegetation and geological features. A prominent river valley is visible in the lower-left quadrant, winding through the landscape. The overall scene is captured from a high altitude, providing a wide view of the terrain.

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