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Friends in Low Cases:
2022 Case Law Update



Kelli P. Lieurance

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Let's get excited...



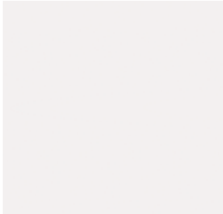
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EEOC's Fiscal Year 2021 Statistics



- Total discrimination charges
- State-wide statistics
- Total monetary collections

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Now to the good stuff...



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Race Discrimination

- *Diaz v. Tesla*, (N.D. California).
- **Tesla ordered to pay \$137 million for racial hostile work environment claim. Award has since been cut to \$15 million.**



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Gender Discrimination



- *Maner v. Dignity Health*, (9th Cir. 2021).
- **Bostock governs. Changing the sex of the complainant would not yield a different choice by employer because the identity of the favored paramour would remain the same.**

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Pregnancy Discrimination

- *Battino v. Redi-Carpet Sales of Utah, LLC*, (10th Cir. 2021).
- **Childcare not protected under Title VII.**



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Sexual Harassment



- *Abbt v. City of Houston*, (5th Cir. 2022).
- **The repeated viewing of a private intimate video was based on sex.**

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Sexual Harassment

- *Flores v. CFI Resorts Mgmt., Inc.*, (M.D. Fla. Feb. 14, 2022).
- **Personal chef entitled to trial based on harassment by owner's wife.**



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Disability Discrimination



- *Lockhart v. Marietta City Schs.*, (6th Cir. Oct. 15, 2021).
- **School district need not accommodate someone who repeatedly disobeyed orders not to communicate about her beliefs.**

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Disability Discrimination

- *Wirtes v. City of Newport News*, (4th Cir. 2021).
- **Transfer should be the reasonable accommodation of last resort.**



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Retaliation



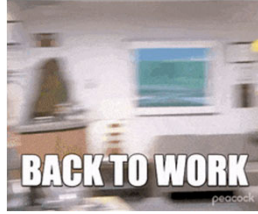
- *Smith v. City of Pelham*, (11th Cir. Dec. 10, 2021).
- **Search of computer was an adverse action even though employee was not aware of it.**

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COVID-19

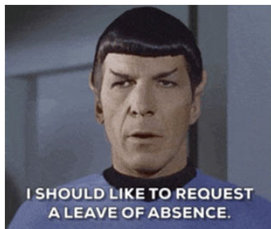
- *See's Candies, Inc. v. Super. Ct. of L.A. Cty.*, (Cal. Ct. App., 2d Dist., 12/21/21).
- **Claims based on death of employee's husband not barred by CA workers' comp laws.**



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FMLA



- *Whittington v. Tyson Foods, Inc.*, (8th Cir. 2021).
- **Recertification appropriate after employee missed 16 consecutive days.**

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Wage and Hour

- *Hernandez v. Plastipak Packaging, Inc.*, (11th Cir. 2021).
- **Bonuses on top of fixed salary do not bar use of "fluctuating workweek" method.**



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Independent Contractor Status



- *Horror Inc. v. Miller*, (2d Cir. 2021).
- **Miller was an independent contractor when he wrote *Friday the 13th*, and therefore entitled to authorship rights.**

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