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References

CCP – Code of Civil Procedure

GC – Government Code

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• 6-08/100.00 JOB DISCRIMINATION

The California Department of Fair Employment and Housing Commission issues verified complaints, subpoenas and cease and desist orders (injunctions) to enforce laws prohibiting discrimination in the work place or housing based on race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, age, sexual orientation, or military and veteran status. (GC 12920)

• • 6-08/100.10 Verified Complaint

Any person claiming job discrimination may file with the Commission a verified complaint in writing. The director or the director's authorized representative may in like manner, on that person's own motion, make, sign and file a complaint. (GC 12960)

The verified complaint shall be served either personally or by certified mail with return receipt requested, upon the person, employer, labor organization, or employment agency alleged to have committed the unlawful practice complained of. Service shall be made at the time of initial contact with such person, employer, labor organization, or employment agency or the agents thereof, or within 60 days, whichever first occurs. At the discretion of the director, the complaint may not contain the name of the complaining party unless such complaint is filed by the director or the director's authorized representative. (GC 12962)

• 6-08/200.00 Subpoenas

A subpoena shall be served by delivering a copy of the subpoena to the individual named on the subpoena or to any person who would be eligible to receive service of summons (5-07/500.00 Service of Summons) on behalf of the individual or organization named on the subpoena. The copy of the subpoena may be delivered by personal service (CCP 415.10), by substituted service (CCP 415.20), or by certified mail. The affidavit of the individual serving the subpoena setting forth the manner of such service, along with the return post office receipt in the case of mail service, shall be sufficient proof of such service. (GC 12963.1)

• • 6-08/200.10 Time to Serve

Service of a subpoena shall be made so as to allow the recipient of the subpoena a reasonable time for compliance.

• • 6-08/200.20 Subpoena Duces Tecum

A subpoena for appearance and production of books, records, documents, and physical materials shall identify with reasonable particularity the things that are to be produced. The subpoena need not be accompanied by an affidavit showing good cause or the materiality of the things sought to be produced.

• • 6-08/200.30 Subpoena re Deposition

A subpoena for appearance and testimony at a deposition or other proceeding issued to a corporation, partnership, association, public entity, or other organization shall state with reasonable particularity the matters on which testimony is sought. The organization served with such a subpoena shall have the obligation of producing as a witness one or more officers, directors, managing agents, or other individuals to testify on its behalf as to the matters specified in the subpoena.

• • 6-08/200.40 Attendance

No individual named on a subpoena shall be obliged to attend as a witness before the department at a place out of the county in which that person resides, unless the distance is less than 150 miles from the individual's place of residence or good cause appears why attendance of the witness at greater distance should be required. Each witness who has appeared pursuant to a subpoena shall, upon demand, be paid by the department the same fees and mileage allowed by law to witnesses in civil cases. (California Code of Regulations 10059) (GC 12963.1)

• 6-08/300.00 Request for Production of Documents

The department may issue and serve requests for production for inspection and copying of books, records, documents, and physical materials in the possession or under the control of an individual or organization. (GC 12963.4)

• • 6-08/300.10 Manner of Service

A request for production may be issued and served on the same individuals and organizations and in the same manner as subpoenas may be issued and served under GC 12963.1.

• • 6-08/300.20 Contents

A request for production shall identify with reasonable particularity the things that are to be inspected and shall specify a reasonable time, place, and manner of making the inspection and performing the copying, and may prescribe such terms and conditions as are just. (GC 12963.1)

• • 6-08/300.30 Production of Documents

Within 30 days after service of a request for production or such longer time as the department may permit, the recipient of the request shall serve on the department a written response with respect to each item requested, either stating that inspection and copying will be permitted as requested or objecting to the request and stating the grounds of the objection. Unless a request for production is objected to, the recipient of the request shall thereafter permit the inspection and copying requested by the department. (GC 12963.2)

• 6-08/400.00 Order to Show Cause

If an individual or organization fails to comply with a subpoena, interrogatory, request for production, or examination under oath by refusing to respond fully or objecting thereto, or by obstructing any proceeding before the department, the department may file with a superior court a petition for an order compelling compliance, naming as respondent the individual or organization that has failed to comply. If the petition sets forth good cause for relief, the court shall issue an order to show cause to the respondent; otherwise the court shall enter an order denying the petition.

The order to show cause shall be served, along with the department's petition, on the respondent in the same manner as summons must be served in civil actions (5-07/500.00 Service of Summons), and the order shall be returnable not less than 10 days from its issuance nor later than 45 days after the filing of the petition. The respondent shall have the right to serve and file a written answer or other response to the petition and order to show cause. (GC 12963.5)

• 6-08/500.00 Court Order

Unless otherwise stipulated by the parties, the court shall no later than 30 days after the filing of the petition file its order granting or denying the petition. However, the court may on its own motion for good cause extend such time an additional 30 days. If the order grants the petition in whole or part, the order shall set forth the manner in which the respondent shall comply and the period of time following the effective date of the order within which such compliance is required. A copy of the order shall be served by mail by the clerk upon the parties. If the order grants the petition in whole or in part, the order shall not

become effective until 10 days after it is served. If the order denies the petition, it shall become effective on the date it is served. The order of the superior court shall be final and not subject to review by appeal. A party aggrieved by such order, or any part thereof, may within 15 days after

the service of the superior court's order, serve and file in the appropriate court of appeal a petition for a writ of mandamus to compel the superior court to set aside or otherwise modify its order. If or whenever such review is sought from an order granting discovery, the order of the trial court shall be stayed upon the filing of the petition for a writ of mandamus, provided, however, the court of appeal may dissolve or modify the stay thereafter if it is in the public interest to do so. If or whenever such review is sought from a denial of discovery, the trial court's order shall not be stayed by the court of appeal except upon a clear showing of probable error. (GC 12963.5)

• 6-08/600.00 Preliminary Injunction

Whenever a complaint is filed with the department and the department concludes on the basis of a preliminary investigation that prompt judicial action is necessary to carry out the purposes of this part, the director or his authorized representative may bring a civil action for appropriate temporary or preliminary relief pending final disposition of such complaint. Any temporary restraining order or other order granting preliminary or temporary relief shall be issued in accordance with Section 527 of the Code of Civil Procedure. (GC 12974) Cease and Desist Order under authority of GC 12970 was repealed 2012 (SB 1038)

• 6-08/700.00 Civil Penalty

California Department of Fair Employment and Housing Commission no longer has the ability to assess civil penalties. However, the Commission may request the court in any civil action to grant relief by assessing a civil penalty of up to twenty-five thousand dollars ($25,000) to be awarded to a person denied any right provided for by Section 51.7 of the Civil Code, as an unlawful practice prohibited under this part. (GC 12965 (c))