The Act of Terminating Employees - Cutting Down on after Termination Legal Battles

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Introduction

About

Kimball, Tirey & St. John LLP

- Representing landlords for over 45 years
- Statewide representation
- Areas of practice

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Introduction to Wrongful Termination Overview of wrongful termination CA is an at-will state but it is not a complete shield to liability (CA Labor Code Section 2922) A termination, even though employment is at-will, is wrongful when it is done in violation of public policy.

Gantt v. Sentry Ins. (1992) 1 Cal.4th 1083, 1094

Termination can also be constructive



Introduction to Wrongful Termination Cont.

Common additional claims in wrongful termination lawsuits:

- Defamation, libel, and slander
- Intentional infliction of emotional distress
- Invasion of privacy
- Discrimination



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Introduction to Wrongful **Termination** Cont.

- The bases upon which claims of wrongful termination in violation of public policy is vast:

 Employees could allege that they were fired due to:
 Discrimination on the basis of any of the protected classes

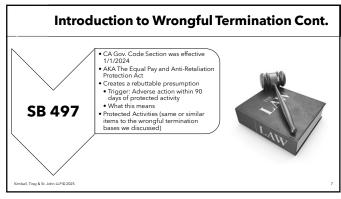
 Out of retaliation

 Process the transport CEPA leave or protections.

- Out of retaliation
 Because they sought CFRA leave or protections
 Because they reported an OSHA violation
 Because they complained about wage and hour issues (for example, not being paid overtime properly)
 Because they testified at a hearing

- For engaging in certain political activity
 Because they reported penal code violations, fraud, tax violations, false claims act violations, ICRA violations, or BPC § 16600 violations

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Introduction to Wrongful Termination Cont.

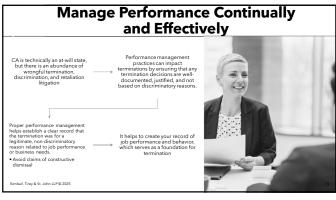


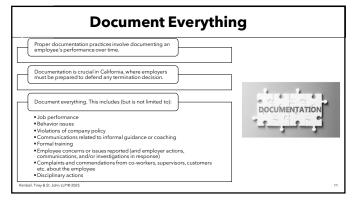
Do we Go from Here?

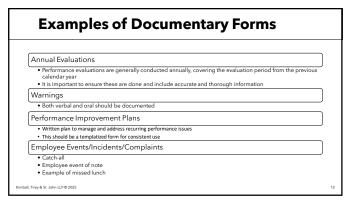
Where • Proactive practices leads to defensible decisions!

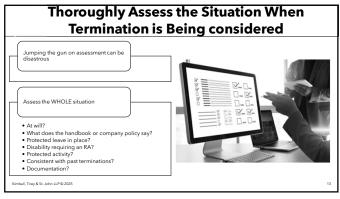
How to Limit Post Termination Liability Exposure Manage performance continually and effectively Document everything Follow company policy and apply the policies consistently and fairly Thoroughly assess termination before you proceed Employees Be clear in the reason for termination Propose a severance agreement Provide proper termination documents

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Be Clear in the Reason for Termination

Vague vs specific rationale

- "Your services are no longer needed" or "The company is moving in a different direction"
- direction"

 "The termination of your employment is because you have not met the expectations of the position, including but not limited to regularly being tardy to work and a failure to perform certain job tasks accurately and timely. Consistent with our company policies and practices, we have attempted coaching and/or discussing these deficiencies with you. However, you have not made the improvements necessary to continue employment."



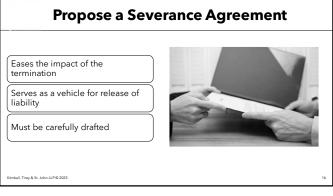
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Be Professional

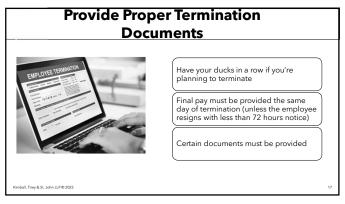


Remember, we're all human and terminations are hard

A respectful and delicately handled termination goes a long way

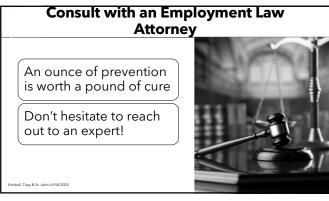


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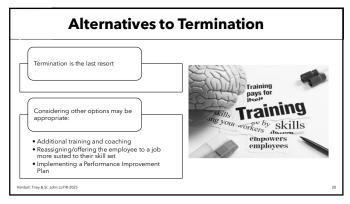


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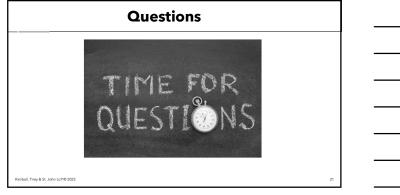




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