

Duck and Cover! Two New “Nuclear Verdicts” Put California Employers On Alert

California Employment Law Update on **December 19, 2023**

The Los Angeles Superior Court has bestowed some remarkable gifts upon plaintiffs this holiday season. Two juries have issued gigantic verdicts in favor of individual plaintiffs in separate employment lawsuits within the past month.

On November 16, 2023, in *Sosa v. Comerica Bank*, a jury delivered a verdict of \$14.17 million consisting of \$1.17 million in lost earnings (past and future) and \$13 million in emotional distress damages in a wrongful termination and gender discrimination case. The plaintiff is a former branch manager of a bank who alleged she was fired because she took medical leave to care for her ill husband. Not only did the jury determine that the plaintiff was fired because she took medical leave, but it also found that she was the victim of gender discrimination and that the bank had failed to take reasonable steps to prevent it. The bank, on the other hand, contended that the plaintiff was fired for using her position and power to abuse her subordinate employees, including putting her hands on one of those employees on at least three occasions.

Then, on December 11, 2023, the jury in *Gatchalian v. Kaiser Foundation Hospitals*, delivered a blockbuster \$41.5 million verdict, which included \$2.5 million in lost earnings (past and future), \$9 million in emotional distress damages, and \$30 million in punitive damages in a whistleblower retaliation case. This plaintiff worked as a nurse in a neonatal intensive care unit and alleged that she was fired after she raised concerns over patient safety.

Apparently, neither of these employees had signed an enforceable arbitration agreement, which as we have said many times before, remains the only reliable antidote employers have to guard against catastrophes like these — catastrophes that are occurring with ever greater frequency in the trial courts of California. See, for example, this [shocking \\$464 million verdict](#) we covered in June 2022 from the Los Angeles Superior Court, and our compendium of [other “nuclear” verdicts](#) issued by California juries in recent years.

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