

California Clarifies Exception to Limitation on Employers' Ability to Negotiate for No-Rehire Provisions in Settlement Agreements



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In October 2019, Governor Gavin Newsom signed into law [Assembly Bill \(AB\) 749](#), which added Code of Civil Procedure section 1002.5 effective January 1, 2020. That provision prohibited employers from including so-called “no rehire” provisions in settlement agreements that had the effect of preventing settling employees from obtaining future employment with the settling employer or any parent company, subsidiary, division, affiliate, or contractor of the employer. The law, however, did not preclude such employers and employees from making an agreement to prohibit or otherwise restrict the employee from obtaining future employment if the employer made a good faith determination that the employee engaged in sexual harassment or sexual assault.

[AB 2143](#) amends Code of Civil Procedure section 1002.5 to expand this exception to include good faith determinations that the settling employee engaged in any criminal conduct and to require the settling employer to document its determination of sexual assault, sexual harassment, or other criminal conduct before the employee filed the claim leading to the settlement.

Nothing in Code of Civil Procedure section 1002.5 requires employers to continue employing or to rehire any person if there is a legitimate non-discriminatory or non-retaliatory reason for doing so.

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