



# EMPLOYMENT LITIGATION CONFERENCE

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## ADA/Employer Leave



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# Trends In Leave Requests

- 70% of those surveyed have seen an increase in leave of absences related to employee mental health.<sup>1</sup>
- Differences from physical disabilities
  - Unscheduled or without notice
  - Management who does not alert or pull in HR
  - Incorrectly denying use of sick time
  - Delay in the interactive process



1. <https://www.littler.com/news-analysis/littler-report/littler-2025-employer-survey-leave-and-accommodation-key-findings>



# Legal Landscape on Leave & Accommodation

- Federal and State Interactive Process and Accommodation Requirements **Overlap**
  - Americans with Disabilities Act (ADA)
  - California Fair Employment and Housing Act (FEHA)
- Some Federal and State Leave Entitlements run **Concurrently**
  - Family and Medical Leave Act (FMLA)
  - California Family Rights Act (CFRA)
- Some Local Requirements run **Consecutively**
  - Example: California Pregnancy Disability Leave (PDL)
  - Check with Local Employment Counsel for Specific Questions



# Extended Leave vs. Indefinite Leave



- When Statutory Leave Entitlements are Exhausted/Inapplicable, ADA and FEHA jurisprudence informs us that additional leave can be considered a “reasonable accommodation”
  - “Reasonable” leave is required.
    - Unpaid leave is a reasonable accommodation “where it appears likely that the employee will be able to return to an existing position at some time in the foreseeable future.” *Jensen v. Wells Fargo Bank*, 85 Cal. App. 4th 245, 263 (2000).
  - “Indefinite” leave is not.
    - “A finite leave of absence may be a reasonable accommodation to allow an employee time to recover, but FEHA does not require the employer to provide an indefinite leave of absence to await possible future vacancies.” *Nealy v. City of Santa Monica*, 234 Cal. App. 4th 359, 377–78 (2015).
  - Leave extensions amounting to an indefinite leave **can** be considered an undue hardship. E.g., *Olson v. Costco*, 2025 WL 2420558.

# Hugyetz v. Equinox Holdings, Inc.

(LASC Case No. 22STCV26384)



- Lajos Hugyetz is a 5-time world kickboxing champ; 7-time European champ. Personal trainer at Equinox for five years.
- Hugyetz requested accommodations for his disability; Equinox allegedly ignored him and allegedly did not engage in the Interactive Process.
- Equinox fired Hugyetz for supposedly violating its attendance policies. Hugyetz said he was on leave for his own health and to care for his disabled mother.
- Lawsuit filed in Aug. 2022, alleging failure to accommodate/engage in the interactive process, discrimination, retaliation, and wrongful termination.

## Verdict:

- Hugyetz awarded more than **\$32 million!!!**
  - **\$8.2 million** awarded as compensatory damages
  - **\$24 million** awarded in punitive damages



# Hugyetz Trial Order Excerpts



## **Claim: Failure to Engage in the Interactive Process**

Question No. 3: Did defendant Equinox Holdings, Inc. fail to participate in a timely, good-faith interactive process with Lajos Hugyetz to determine whether reasonable accommodation could be made?

Yes X No \_\_\_\_\_

## **Claim: Failure to Accommodate Disability**

Question No. 7: Was Lajos Hugyetz able to perform the essential job duties with reasonable accommodation for his disability?

Yes X No \_\_\_\_\_

Question No. 8: Did defendant Equinox Holdings, Inc. fail to provide reasonable accommodation for Lajos Hugyetz's disability?

Yes X No \_\_\_\_\_

## **Claim: Disability Discrimination**

Question No. 15: Was Hugyetz's violation of Equinox's Attendance and Punctuality policy also a substantial motivating reason for its decision to subject Lajos Hugyetz to adverse employment actions?

Yes \_\_\_\_\_ No X

## **Claim: Retaliation**

Question No. 19: Was Lajos Hugyetz's (a) request for accommodation, and/or (b) request and/or taking of disability leave a substantial motivating reason for Defendant Equinox Holdings, Inc.'s decision to subject Lajos Hugyetz to any adverse employment action(s)?

Yes X No \_\_\_\_\_



# Taking Power Back for Your Business

- Make the Interactive Process **Work For You!**
- Ensure the Employee **Defines** their Disability
  - Duration / Return to Work
  - Restrictions upon return
- The **Employer** Defines the Accommodation **NOT** the psychiatrist/physician
  - What are the **essential functions** of the position?
  - What works for **your** business?
  - What is the **cost**?
  - What is the risk-mitigation **benefit**?

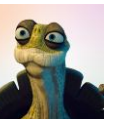


# Reminders/Steps to Follow



*“One often meets their destiny on the road they take to avoid it”*

- Take a step back!
- Let HR/Benefits Lead the Interactive Process
- Arm Your Local/Insurance Counsel!
  - Common Pitfalls
    - “We gave you FMLA”
    - HR contacted at time of separation or during leave
    - Vague doctor’s notes **without** communication/follow-up
  - Successful Defense
    - *Notice! Notice! Notice!*
    - Define Essential Functions in Advance
    - Interactive Process – Defining the **Restrictions** (not the disability)
    - Repeated Extensions / Moving Target / No Endpoint
    - Documentation of **Options Considered** to support undue hardship





# Remote Work, Hybrid Work, and the Evolving Post-COVID Workplace



# Managing Hybrid Work Policy and Accommodations

- For Companies that have increased in-office days or eliminated remote work:
  - Increased requests for remote work accommodations
  - Increase in complaints
  - Increase in employee turnover<sup>1</sup>

1. <https://www.littler.com/news-analysis/littler-report/littler-2025-employer-survey-leave-and-accommodation-key-findings>



# Understanding Remote Work as a Potential Accommodation

- There is no Statutory Entitlement to remote work.
  - Example: *Allos v. Poway Unified School District*, 112 Cal.App.5th 822 (2025).
- Your approach matters!
- Typical issues arising from inconsistently reviewing remote work as an accommodation:
  - Retaliation: remote work revoked after protected activity
  - Discrimination: he is permitted to work remotely, she is not
  - Interactive Process: remote work not *considered* when colorable based on COVID operations



# “My Employee Moved While Remote or While on Leave”

- Compliance Concerns
  - Wage and Hour Regulations Exemptions/Classification (highly variable)
  - Payroll/Corporate/Business/Sales Tax, Registration, Licensing
  - Workers’ Compensation Coverage
  - Leave Entitlements
- Practical Controls
  - Policies require **written notice** of work location changes
  - Interactive Process communications confirm employee location
- Remedial Controls
  - Documented “return to state” agreement
  - Termination
  - Compliance cannot be accomplished on-the-fly



# Strengthening Your Process

- Document essential functions in advance
  - *Your job descriptions are now Exhibit A!*
  - Train managers for consistent enforcement
    - *Everyone in [X] employee classification is on-site, no exceptions.*
- Documented Interactive Process
  - *Potential for remote work examined and accepted/rejected on a case-by-case basis.*
- Paper/Notice win cases. Manager/HR emails are **critical**.



# Reminders No Matter the Stage

- **Utilize** the Interactive Process
- Define employee **restrictions** (not the disability) and duration of leave/remote work
- Define **essential functions** proactively, i.e. addressing why physical presence is important in your business/workplace
- Consider and **document alternatives** – if they are not viable, why not?
- Train managerial personnel for **consistent** application.

# Questions? Contact the Presenters!



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