

Under New California Law—No Proof of Sexual Desire Required to Prove Sexual Harassment

[Lara C. de Leon](#) | August 13, 2013

On August 12, California Governor Jerry Brown signed into law [Senate Bill \(SB\) 292](#) which amends section 12940 of the California Fair Employment and Housing Act. The bill addresses the decision in [Kelley v. Conoco Companies](#) and clarifies that an individual who sues for sexual harassment under state law need not prove that the sexually harassing conduct was motivated by sexual desire.

By overturning the *Kelley* decision, this self-proclaimed non-controversial bill eliminates any lingering questions over the type of proof needed to establish a sexual harassment claim under California law. Sexual harassment plaintiffs need not, in all cases, prove that the allegedly harassing conduct was motivated by sexual desire in order to prevail. SB 292 thus realigns California law—to the extent there was any misalignment or confusion—with the principles espoused in the Supreme Court of the United States' decision in *Oncala v. Sundowner Offshore Services, Inc.* and its progeny.

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