

California Workplace Law Blog

Insight & Commentary on California Workplace Law Issues & Developments

California Court of Appeal Expands FEHA's Reasonable Accommodation Requirements to Employees Who are Associated with a Person with Disabilities

By Shane R. Larsen and Cary G. Palmer on April 15, 2016

In *Castro-Ramirez v. Dependable Highway Express, Inc.*, decided April 4, 2016, the California Court of Appeal for the Second Appellate District held California's Fair Employment and Housing Act (FEHA) requires employers to provide reasonable accommodations to employees who are associated with a person with disabilities.

Plaintiff Luis Castro-Ramirez's son was in need of a kidney transplant, required daily dialysis, and Ramirez was the only member of his family capable of operating the dialysis machine. Ramirez drove a delivery truck for Dependable Highway Express, Inc. (DHE). When he began his employment in 2010, he informed his supervisor that he needed to be assigned schedules that would permit him to be home in the evening to administer his son's dialysis.

For nearly three years, Ramirez's supervisors granted his request and assigned Ramirez routes and schedules that allowed him to be home in the evenings. In 2013, Ramirez received a new supervisor. Although he made his new supervisor aware of his need to be home in the evening, the supervisor assigned him a route that prevented him from being home in time for his son's dialysis. Ramirez thus requested another route. The supervisor rejected the request, and when Ramirez refused to accept the route, DHE terminated Ramirez. Ramirez sued DHE for disability discrimination on the basis of association with a person who has a disability. Ramirez also sued DHE for a failure to accommodate, but later abandoned that claim.

FEHA recognizes a claim of associational disability discrimination, but Ramirez argued that failing to provide him with a schedule accommodation was itself discrimination. The trial court rejected Ramirez's argument and he appealed.

The Court of Appeal reversed. The appellate court found that FEHA's statutory language defining "physical

disability” also encompassed a person who is associated with a person who has disabilities. Under the appellate court’s reasoning, associating with a person with disabilities is itself a disability for the purposes of FEHA and must, therefore, be accommodated. An employee may now be entitled to accommodations by virtue of the fact that he or she is associated with a person with disabilities.

One member of the appellate court filed a vigorous dissent to the majority’s opinion. The dissent noted that Ramirez had abandoned his failure to accommodate claim against DHE and the court’s majority was deviating from precedent under the Americans with Disabilities Act (ADA). Although FEHA provides more protections than the ADA, the dissent warned that courts should avoid expanding the protections without the Legislature’s clear guidance. The dissent also noted Ramirez could have sought protected leave under the California Family Rights Act (CFRA), so there was no need to read new protections into FEHA.

The appellate court’s decision results in new requirements for California employers. Employers must now consider requests by employees for an accommodation due to their association with a person with disabilities. This responsibility is in addition to an employer’s obligation to grant leave under the CFRA to provide care for a family member. Supervisors and human resources personnel should be aware of this new requirement.

Jackson Lewis attorneys are available to help employers navigate these issues. Should you have any questions about the new law, please feel free to contact Shane R. Larsen at shane.larsen@jacksonlewis.com, Cary G. Palmer at palmerc@jacksonlewis.com, or any Principal in the firm’s Disability Leave and Health Management Practice Group at <http://www.jacksonlewis.com/practice/disability-leave-and-health-management>.