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California's new sexual harassment standard: What 'totality of the circumstances' means for employers

California's Carranza decision marks a turning point in harassment law, signaling that even indirect, single incidents can create employer liability.

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The legal landscape governing sexual harassment in the workplace is in constant flux, particularly in California, which has admittedly progressive and extremely employee-protective statutes. Recent legislative amendments and judicial interpretations have been a game changer and significantly reshaped how sexual harassment claims are evaluated. These changes have increased the risk for California employers to be held liable in cases that a few years ago would have been seen as "marginal" or "lower value."

If California employers weren't already revising how they deal with harassment complaints, the Court of Appeal's recent decision in *Carranza v. City of Los Angeles* serves as a powerful and illustrative wake-up call and example of this paradigm shift, offering critical insights into the new realities employers face. The Court of Appeal's Carranza decision issued on May 23 not only clarifies but also amplifies how the new *"totality of the circumstances"* interpretation of the Fair Employment and Housing Act (FEHA) protects employees from hostile work environments even when they don't suffer personal harassment.

For decades, California courts applied a relatively high bar for sexual harassment claims, as exemplified by cases like *Lyle v. Warner Brothers Television Productions*. In *Lyle*, about 20 years ago, the California Supreme Court set a precedent that required harassing conduct to be both severe or pervasive, often demanding that plaintiffs demonstrate a persistent, objectively intolerable environment–one that was, in the words of some courts, "hellish." This approach often left victims without recourse unless they could point to a pattern of egregious, repeated acts or conduct that was physically threatening. The focus was on the number, frequency and extremity of the conduct, as courts were reluctant to find liability for isolated incidents that, while offensive, did not rise to the level of outright psychological injury or career derailment. In the last few years, all that has changed and employers need to be aware to this evolution.

First, the California Legislature's 2019 amendments to the FEHA, codified in Government Code section 12923, signaled a decisive break from the past. The law now makes clear that a single incident of harassing conduct may suffice to establish liability if it unreasonably interferes with an employee's work performance or creates an intimidating, hostile, or offensive work environment. The Legislature explicitly rejected the notion that only extreme, repeated, or physically threatening conduct could support a claim, and instead directed courts to consider the "totality of the circumstances," including the social context and the impact on the victim's emotional tranquility or ability to perform their job.

While the amendments have been on the books for six years, the Carranza case brings these changes into sharp focus. Captain Carolyn Carranza, a high-ranking officer in the Los Angeles Police Department, became the target of a deeply humiliating campaign when a doctored nude photo purporting to depict her was circulated among dozens, if not hundreds, of LAPD officers. The image was not merely offensive; it was intended to degrade, intimidate, and undermine her authority as a female leader in a male-dominated organization. Officers openly ogled the photo, made lewd comments, and joked at her expense, while the department apparently failed to take timely or meaningful corrective action. Carranza's distress was compounded by the LAPD's refusal to clarify that the photo was

not actually of her or to discipline those responsible for its distribution. Moreover, all Carranza wanted was for the LAPD to say that continued distribution of this fake photo would lead to discipline. It didn't do that.

What is striking about the court's analysis is its rejection of the City's argument that Carranza's claim rested on a single, indirect incident. The court recognized that the widespread, unchecked distribution of the photo and the knowledge that it was being viewed and discussed throughout the Department created a work environment so hostile and humiliating that it fundamentally altered Carranza's ability to do her job. She suffered panic attacks, required therapy, and even had to be hospitalized. Her public-facing duties became a source of anxiety and shame, as she could no longer trust her colleagues or feel comfortable in her workplace.

This approach stands in stark contrast to the rigid, mathematical calculations of the past. No longer must a plaintiff tally the number of offensive remarks or incidents to meet an arbitrary threshold. Instead, courts are instructed to weigh the qualitative impact of the conduct: Was it humiliating? Did it undermine the victim's sense of safety or well-being? Did it make it more difficult to perform the job? How did co-workers view the victim? The Carranza decision makes clear that even conduct occurring out of the victim's direct presence, if widely known and left unaddressed, can create a hostile environment under the law.

The court also decisively moved away from reliance on outdated cases like *Brennan v. Townsend & O'Leary Enterprises* and *Mokler v. County of Orange*, which had previously set a high bar for plaintiffs. These cases, the court explained, are "no longer good law" in light of section 12923's more expansive definition of a hostile work environment. The focus is now on whether the conduct "offends, humiliates, distresses, or intrudes upon its victim, so as to disrupt the victim's emotional tranquility in the workplace, affect the victim's ability to perform the job as usual, or otherwise interfere with and undermine the victim's personal sense of well-being."

This sea change in the law has profound implications for California employers. The days of minimizing or dismissing complaints as isolated or insufficiently severe are over. Employers can no longer rely on the defense that the conduct was not "extreme," that the plaintiff was not "directly affected" by the conduct, or that the workplace was not "hellish" enough. Instead, California employers must recognize that liability may arise from a single incident–particularly if it is humiliating, widely disseminated, or left unaddressed by management.

Consider, for example, the difference between the old and new standards. Under the Lyle framework, an employer might have escaped liability if a sexually explicit comment or image was shared only once, or if the victim did not witness every instance of misconduct. Today, under Carranza and section 12923, the mere knowledge that such material is circulating, coupled with management's failure to act, can be enough to support a claim. The law now recognizes the psychological harm and professional damage that can result from even a single, widely-known act of harassment, especially when the employer's response is inadequate.

In practical terms, this means California employers must fundamentally rethink their approach to preventing and addressing workplace harassment. It is no longer sufficient to have a policy on paper or to conduct annual training sessions that pay lip service to compliance. Employers must foster a culture of zero tolerance for harassment in all its forms, including verbal, physical, and visual misconduct, whether in person or through digital or electronic means. They must be prepared to investigate all complaints promptly and thoroughly, regardless of whether the conduct was witnessed directly by the victim or occurred in the digital shadows of the workplace. Employers must now train employees that harassment doesn't require direct interaction, discuss scenarios involving indirect communication, rumors, sharing of inappropriate content (even if the target isn't present), and social media use that can spill into the workplace.

Moreover, employers must recognize that their response–or lack thereof–can be just as damaging as the original misconduct. In Carranza, the LAPD's failure to investigate, clarify, stop the distribution, or discipline sent a clear message to both the victim and the broader workforce: This behavior would be tolerated. This not only exacerbated Carranza's suffering but also exposed the department to liability under the new, more protective legal standard.

To reduce the risk of liability, California employers should take several pragmatic steps. First, they must ensure that their anti-harassment policies are updated to reflect the law's new emphasis on the totality of the circumstances and the possibility of liability for single incidents. Second, they should provide regular, meaningful training that goes beyond the basics, educating employees about the many forms of harassment, including digital harassment and fake explicit images. This includes things like rumors, derogatory comments made behind an employee's back, or the circulation of inappropriate images or content, even if the victim only learns about it secondhand. Third, employers should reissue reporting and investigation procedures, making it clear that all complaints will be addressed promptly, regardless of the perpetrator's rank or the victim's position. Here, most of those viewing the fake nude photo were Carranza's subordinates.

Additionally, employers should consider the broader organizational context, especially in hierarchical or male-dominated environments, where power dynamics may make it more difficult for victims to come forward. Providing confidential reporting channels, supporting victims with counseling or temporary job modifications, and holding all employees accountable–regardless of status–are essential components of a comprehensive prevention strategy.

Ultimately, the Carranza decision is a clarion call for California employers: The era of minimizing, ignoring, or narrowly interpreting sexual harassment claims is over. The law now demands vigilance, empathy, and decisive immediate action. By embracing these principles, employers can not only reduce their legal exposure but also create safer, more respectful workplaces for all. Imagine if, shortly after being alerted of the fake nude photo, the LAPD immediately issued a department-wide directive that this fake nude photo needed to be immediately deleted and any further distribution by anyone would lead to immediate discipline, up to and including termination? Perhaps, this entire case could have been avoided.

The message from the California courts is now clearer than ever: Protecting employees from harassment is not just a legal obligation, but a moral imperative that requires ongoing commitment and cultural change.

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