The 12 Days of California Labor and Employment Series – Day 11 “No Vacation Time Prior to Utilizing Paid Family Leave”

2 min read

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In the spirit of the season, we are using our annual “12 Days of California Labor and Employment” blog series to address new California laws and their impact on employers. On the eleventh day of the holidays, my labor and employment attorney gave to me eleven pipers piping and AB 2123.

Paid Family Leave

Paid Family Leave (PFL) provides benefit payments to people who need to take time off work to:

- Care for a critically ill family member;
- Bond with a new child (within one year of birth or replacement); or
- Participate in a qualifying event because of a family member’s military deployment.

An individual can receive benefit payments for up to eight weeks if eligible. The weekly payment amount is determined by the individual’s income.

Existing California law authorizes an employer to require an employee to take up to two weeks of earned but unused vacation before and as a condition of the employee’s initial receipt of these benefits during any 12-month period in which the employee is eligible for these benefits.

AB 2123

With the enactment of AB 2123, California employers will no longer be able to require employees to take up to two weeks of earned but unused vacation time before they can access PFL. As of **January 1, 2025**, employees will have immediate access to PFL without using any accrued vacation at the start of 2025.

Employees will still have the option to use earned but unused vacation time after using any PFL. Alternatively, employees could also utilize accrued vacation to "top off" their PFL benefits by paying an additional amount from accrued vacation to cover the difference between PFL and the regular wages or vacation that the employee might otherwise receive.

Key Takeaways for California Employers

- Employers should review their policies concerning leaves of absence, including PFL, and how to address employee contributions moving forward.
- Providing additional training for human resource personnel is also recommended to ensure that the employer handles any PFL requests appropriately.

Since AB 2123 does not take effect until January 1, 2025, if an employer has an employee who began their PFL leave before that time and utilized their earned but unused vacation time, the employer does not need to do anything further. Any used vacation time does not need to be replaced or returned. However, any scheduled PFL leaves beginning on or after **January 1, 2025,** cannot be required to use any earned but unused vacation.

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