

ALERT

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CalChamber Announces New Brand Identity

Dual Roles in Advocacy, Providing Compliance Products

The California Chamber of Commerce this week announced the launch of its new brand identity, CalChamber, with the public unveiling of the organization's new logo on its website, www.calchamber.com.

CalChamber President Allan Zaremberg said that the largest broad-based business advocate to government in the state has adopted CalChamber as an organization name and is projecting an entirely new brand identity.

The modernized identity combines the CalChamber's 100-plus year advocacy success record with its extensive suite of compliance offerings to present an image of effectiveness and professional excellence.

New Logo Reflects Mission

"We at CalChamber are very excited about our new brand identity," said Zaremberg. "The new logo reflects our mission of helping California business do business. Combined with the modernized reference to our name, it highlights the way we serve our member businesses: as an effective advocate for policies to keep them competitive and as a reliable source of offerings to keep them in compliance with California's complex laws and regulations."

The new brand identity encompasses and connects the CalChamber's two main avenues for helping California businesses: advocacy and compliance products for any company that does business in California. Moreover, this fresh and



Helping California Business Do Business®

revitalized brand identity distinguishes the CalChamber as a pro-active champion that unifies and empowers California businesses to confront common legislative and compliance issues critical to their success.

"With CalChamber keeping companies up to speed on state laws and best practices for compliance, employers can stay focused on running their businesses, saving time and money," added Zaremberg.

Attributes

The two arcs of the CalChamber logo come together, representing the California sun over the Pacific Ocean. The joining of the two arcs conveys the organization's attributes: connecting, partnership, forward-thinking and supporting California business.

Implementation of the new CalChamber brand identity already has begun and will continue over several weeks with additional changes to calchamber.com, as well as the organization's compliance product sales site, calbizcentral.com, and its employment practices advice site, hrcalifornia.com.

The CalChamber was advised on its brand identity by one of the world's leading strategic brand and design consultancies, Landor Associates, which also has

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CalChamber Urges Delay in Adopting New Travel Expense Reimbursement Rules

The California Chamber of Commerce this week urged a delay in adoption of new state-proposed guidelines on how employers should determine and reimburse employees for job-incurred expenses.

The proposed regulations are premature, given that a case pending before the California Supreme Court deals with the same issue, the CalChamber and a coalition of employers and business groups said in testimony to the state Division of Labor Standards Enforcement (DLSE) on February 7.

Limits Employer Discretion

"The proposed regulations go beyond the scope of the law by limiting the employer's discretion in determining actual and reasonable expenses and prescribing a stringent method of handling the reimbursement process," said Marti Fisher, CalChamber policy advocate.

"On top of that, the proposed new rules create more ambiguity and confusion than we now have, rather than clarifying existing practice," Fisher said.

Existing Law

Current law requires that employers reimburse employees for necessarily

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Labor Law Corner

Maintain Job Protection, Benefits for Employees on Disability Leave



Sunny Lee
Senior Labor Law
Consultant

We have an employee who is out on disability leave. What job protection and benefits do we need to continue?

The first question regarding job protection requires a review of applicable federal and state leave laws that may apply to the employee.

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Pregnancy Disability

If the employee is disabled, according to her health care provider, due to pregnancy, childbirth or related medical condition, there is job protection for up to four months or 88 working days.

There is no limitation on the number of pregnancies that may occur in one year, nor is there a requirement that an employee work a period of time before the protections apply. Pregnancy disability leave protection applies from the first day of employment.

Work-Related Disability

If the disability is work related, job protection applies from the first day of employment and continues until that employee is released to return to work. Disabilities also may be protected under the Americans with Disabilities Act (ADA) and the state discrimination protection, and/or the federal Family Medical Leave Act (FMLA) or the California Family Rights Act (CFRA).

For an analysis of those rights and protections, particularly when an employer would consider terminating an employee, the employer should consult with legal counsel.

Benefits

Benefit continuation is required only if the employee is eligible for FMLA or CFRA leave or if the benefit is provided by the employer's policy or practice. Under FMLA/CFRA, health benefits are required to be continued by the employer for 12 weeks, and on the same basis as if the employee were not on leave.

No law requires that an employer continue the accrual of sick leave or vacation time or offer paid holidays. Those benefits are controlled by employer policy and/or practice.

Although vacation and sick leave would continue to accrue whenever an employee is using paid time, most employers cease accruing vacation and sick leave when paid time is exhausted and the employee is not working.

Many holiday policies require that the employee work the day before and after a holiday in order to be paid for the holiday. In addition, many holiday policies explic-

itly state that holidays are not paid when they occur during a leave of absence.

If an employer has not addressed these issues in advance of a leave, an employee may expect that these benefits continue as well.

Exercise Caution

Because an employer often may be dealing with a situation involving multiple employment laws, the employer should analyze circumstances carefully before making any employment decisions concerning an employee who is off work for medical reasons.

For additional information on leaves of absence, consult *Leaves of Absence in California*, available at CalBizCentral, or the Time-Off Library on HRCalifornia.

The Labor Law Helpline is a service to California Chamber of Commerce preferred and executive members. For expert explanations of labor laws and Cal/OSHA regulations, not legal counsel for specific situations, call (800) 348-2262 or submit your question at www.hrcalifornia.com.

Seminars/Trade Shows

For more information on the seminars listed below, visit www.calchamber.com/events.

Business Resources

Transforming Fear to Action. Wilcox Miller & Nelson. February 13, Sacramento. (916) 977-3700.

International Trade

5th Annual California Debates. Northern California World Trade Center. February 26, Sacramento. (916) 319-4276.

4th Annual Global California Conference. Monterey Bay International Trade Association. March 16, Sacramento. (831) 335-4780.

Sub-Saharan Africa Information and Communications Technology Conference. U.S. Trade and Development Agency. March 19-21, San Francisco. (305) 667-4705.

Labor Law

Labor Law Update: HR 201. California Chamber of Commerce. February 13 - Online (2 hours). (800) 331-8877.



Drafting of Emissions Trading Program Task for New Cal/EPA Advisory Group



The task of drafting recommendations for market-based measures — including emissions trading — that could help California reach its goal of capping greenhouse gas emissions is the chief assignment of an advisory committee of the California Environmental Protection Agency (Cal/EPA).

The Market Advisory Committee has scheduled its first public meeting for February 27 at the Cal/EPA building in Sacramento.

Governor Arnold Schwarzenegger ordered the creation of the committee in an executive order issued to outline steps the administration should take to implement California's greenhouse gas reduction law, AB 32 (Núñez; D-Los Angeles; Chapter 488, Statutes of 2006).

Compliance Program Design

The committee is to recommend to

the state Air Resources Board by June 30 a design for a market-based compliance program.

In announcing the 14 members of the committee, Cal/EPA said they were recruited based on their "public policy experience and professional or academic expertise in market-based compliance mechanisms such as trading, offsets, banking and auctioning of emission allowances."

Advisory Committee

Chairing the committee is Winston Hickox, Cal/EPA secretary during the administration of Governor Gray Davis. As Cal/EPA secretary, Hickox supported enactment of 2002 legislation requiring new greenhouse gas emission standards for cars, AB 1493 (Pavley; D-Agoura Hills; Chapter 200).

Since 2004, Hickox has been a senior portfolio manager for the California Public Employees' Retirement System, helping with the design and implementa-

tion of a series of environmental investment initiatives, including investments in clean technology and others focused on the impacts of climate change.

Also named to the committee was former California Assemblyman Joe Nation (D-San Rafael), co-author of AB 32 and the author of 2005 legislation requiring auto manufacturers to conspicuously disclose to consumers the greenhouse gas emissions of new automobiles and trucks. Nation is teaching economics and climate change at the University of San Francisco.

Other committee members include staff members or leaders of environmental organizations focusing on climate change issues, economists, a climate change policy coordinator for New York, the director of the British division responsible for coordinating emissions trading and climate change agreements, and the European Union emission trading system coordinator.

Staff Contact: Amisha Patel

Career Technical Education Receiving More State Attention

Career technical education, an approach long supported by the California Chamber of Commerce, is getting new statewide attention.

The California Senate has formed a new select committee on schools and community, "Career Technical Education: The Next Generation of Workforce Development," chaired by Senator Tom Torlakson (D-Antioch).

In addition, \$500 million in supplemental grants for career technical education (CTE) facilities were included in voter-approved Proposition 1D on the November 2006 ballot.

Historic Bond Use

Passage of Proposition 1D authorized the state to issue \$10.4 billion in bonds to help fund projects to relieve public school, college and university overcrowding, repair older facilities, improve earthquake safety and fund vocational

educational facilities in public schools. This is the first time in state history that funding for CTE has been included in a statewide bond.

"The CalChamber believes helping young people develop the skills necessary to be productive citizens is an essential part of building and maintaining a strong economy, which in turn is essential to business success and social responsibility," said John Hooper, CalChamber policy advocate.

"Career technical education programs are an innovative way to battle the state's increasing high school dropout rate and ensure that California maintains an adequate pool of qualified, well-educated candidates ready to fulfill the state's workforce needs and help keep California competitive in a global economy."

Policy Changes

Governor Arnold Schwarzenegger

and the California Legislature recently enacted a number of policy changes intended to increase the effectiveness of CTE programs. A grant program was created to foster partnerships beginning in middle school and continuing through community college.

The CalChamber looks forward to working closely with the new select committee to improve education options and maintain a system of accountability for low-performing schools and educators.

Staff Contact: John Hooper

CalChamber Calendar

Board of Directors:

March 8-9, Beverly Hills

California Business Legislative Summit:

May 21-22, Sacramento

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incurred costs that include reasonable expenses by the employee in direct consequence of his /her duties.

The law does not require employers to establish expense report systems, nor does it otherwise dictate the method or manner in which the employer complies.

New Burdens for Employers

The CalChamber objected to language in the proposed rules that appears to:

- require the employer to reimburse employees for all expenses, including unreasonable ones;
- limit the employers' options in providing mileage reimbursement;
- create new record-keeping requirements that expose employers to frivolous lawsuits; and
- make employers liable for attorney fees an employee incurs in seeking expense reimbursements, even if the employee's claim is unsuccessful.

Court Case

The case pending before the state Supreme Court, *Gattuso v. Harte-Hankes Shoppers, Inc.*, will decide whether the employer's method of reimbursement complies with the law, thereby providing some guidance on the issue of enhanced compensation and other alternate forms of compensating employees for expenses.

The CalChamber testimony pointed out that the proposed state regulations seek to preclude the reimbursement



Marti Fisher, policy advocate for the California Chamber of Commerce on labor and employment and health care issues, reviews testimony on proposed new regulations governing how employers reimburse employees for work-related travel expenses.

method supported by the court of appeal in the *Gattuso* case. Implementing the regulations before the Supreme Court rules on the case would therefore create unnecessary confusion for employers, the CalChamber said.

Alternative

If the DLSE decides to move ahead in the rulemaking process, the CalChamber

and coalition urged the division to consider "a more reasonable approach that would provide employers with some guidance and flexibility" that allows employers to develop a policy that "is consistent with their industry, workforce and business practices."

Staff Contact: Marti Fisher

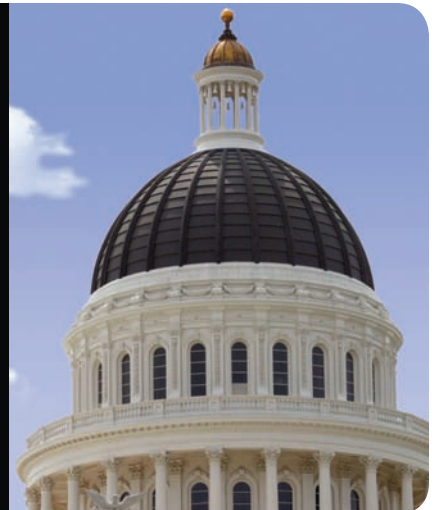


California Business Legislative Summit
Monday, May 21, 2007

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Small Business Advocate of the Year

Simi Valley Business Advocate Driven to Help Entrepreneurs Thrive

Janine Montoya tackles a dizzying assortment of tasks every day, and she does so with great energy and drive.

Montoya, a recipient of the California Chamber of Commerce Small Business Advocate of the Year Award, co-owns and operates two air-conditioning companies in Simi Valley and Newbury Park with her husband, Ted. Along with her entrepreneurial responsibilities, Montoya packs her schedule with raising three children, attending meetings at a number of business organizations and engaging actively in business advocacy.

Montoya “is the one person in Simi Valley that holds the title of ‘small business advocate and lobbyist,’” said Leigh Nixon, president/chief executive officer of the Simi Valley Chamber, and Daryl Kleintob, chairman of the board, in nominating Montoya for the award. “She is dynamic, passionate and represents many small business and women business owners.”

Nominated by Senator Tom McClintock as Woman of the Year in 2004 for “her hard work as a community volunteer and for lobbying for small businesses,” Montoya has earned a place at the advocacy table. Nixon and Kleintob concur with this official assessment: “Janine will advocate for what is right and she does it with a sense of morality and great passion.”

Keeping Business in Business

Montoya learned about the impact and value of advocacy from her father, who has been an enthusiastic letter writer for many years. “I think I got my knowledge that advocacy works and can be pursued from him,” she says.

A letter writer and frequently published op-ed author herself, Montoya has taken her advocacy several steps further, conducting campaigns for ballot measures, establishing contacts with national business organizations and helping to write state legislation on behalf of the business community.

Her first serious lobbying efforts on behalf of businesses came when she realized the negative impact workers’ compensation costs were having on her own small enterprise. “I didn’t have an option; I had to fight it,” she says. “Work-

ers’ compensation costs can make or break a business. I would rather be able to give my employees good wages.”

Constantly motivated to ensure the health and vitality of the business community, Montoya’s latest focus has been on predatory lawsuits that stifle or kill businesses outright.

“Trial attorneys are the bane of industry,” she says. “They’re costing the state and business so much money. They see business as the entity they can tap for resources, not realizing that it affects the everyday Californian — the customers and employees.”

Montoya knows personally the harm one of these lawsuits can do to a company. When she experienced one herself, she began working within the system to make things better. Focusing on tort reform, she is helping to craft legislation that will make the losing party in a lawsuit responsible for all legal fees incurred by the other party.

Nurturing Entrepreneurs

Policy is not her only arena of interest and expertise. An enthusiastic supporter of career and technical education, Montoya is excited the state has begun to put energy and money back into this neglected area.

“I have the hardest time finding employees,” she says. “Kids don’t understand this is a good, lucrative field. Not everyone is college-bound. The qualities I need in my employees are honesty, hard work and a good attitude. My field employees also need a technical mind to do well. There are some difficult skills they must master as they work with electricity, gas, moving fans, refrigerant under pressure, and climb on roofs and in attics.”

To encourage students to think about career goals and the business world, Montoya often speaks to high school groups about everything from the value of starting one’s own business to financial literacy. “Creativity, honesty, integrity, energy and finding a niche are what it takes to make a good living,” she says.

Montoya likes to hire right out of high



Janine Montoya

school, train employees in all aspects of the business and make them think about how all the pieces of their work fit together. “They’re not pigeon-holed,” she says. “It’s more satisfying to a thinking person.” In these ways, she works to foster the entrepreneurial spirit in her employees and the community at large.

Making a Difference

Montoya is compelled to make sure her representatives at all levels of government hear and consider the concerns of the business community when making decisions. “Most small business owners are busy and feel they can’t make a difference,” she says. “I feel I can. Maybe I’m naïve, but I feel like I am beginning to make an impact.”

Her message is one of engagement and encouragement. “By example, I can convince others they can help,” she says. “It’s OK to approach your local representatives. They are human.”

Montoya makes sure to keep her ear to the ground regarding legislation that might affect the business community. Along with participating in two business roundtables at her local chambers, she is on a first-name basis with representatives of the business community and local senators and members of the Assembly.

The recognition of her efforts encourages her to continue her work. The Small Business Advocate of the Year Award, she comments, “has given me more confidence. It has made me even more motivated to get more involved and to keep up the hope of things getting better for businesses in California.”

CalChamber-Supported Workers' Comp Reforms Helping Injured Workers Return to Work More Quickly

Moderately injured workers are returning to work faster since Governor Arnold Schwarzenegger signed the California Chamber of Commerce-supported workers' compensation reforms in 2004, according to a recent study.

The study by the California Division of Workers' Compensation (DWC) compiled and reviewed data on the 2005 Permanent Disability Rating Schedule (PDRS) for six months, from January 1, 2005 to June 30, 2005, and found that more injured workers are returning to work sooner.

Promising Results

"At the heart of the SB 899 reforms was the desire to transform California's workers' compensation system from a 'disability system' to a 'return-to-work system,'" said CalChamber President Allan Zarembeg. "Although more evaluation time is needed, the preliminary results appear promising and this study indicates that a positive change in the workers' compensation system is taking hold."

CalChamber-supported **SB 899 (Poochigian; R-Fresno)** of 2004 made fundamental changes in the way the workers' compensation system determines the level of injury and the amount of disability assigned to an injury and created a new medical network to provide quality, cost-effective care to workers.

This package ensured that medical treatment follows nationally recognized guidelines and set clear parameters for what is acceptable treatment for injured workers in the system, while also reducing excessive litigation.

Higher Return-to-Work Rates

The return-to-work rates under the 2005 PDRS show that more employees who have sustained a rateable permanent disability are going back to work since the implementation of SB 899. The percentage of permanently disabled workers employed four quarters after the quarter in which they were injured increased by more than 5 percentage points — from 64.6 percent to 70 percent.

The division notes that a full evaluation of the effects of the PDRS necessitates a wage loss study, which requires three years of post-injury data. Since three years of data aren't yet available, the study just released focused on a small sample size and specifically analyzed injured workers who had been rated for permanent disability within 18 months (six calendar quarters) after the calendar quarter in which they were injured.

The CalChamber believes this study has yielded promising results, but more data should be reviewed over a longer

period before determining if modifications to the system are needed.

The division said the second phase of its plan to analyze the impact of the 2005 PDRS will be completed in March and will include studying the uncompensated wage loss under the 1997 PDRS so it can be compared to the 2005 schedule.

"SB 899 laid the groundwork for continued improvement in the delivery of quality medical treatment. Employers and employees should benefit as the reforms continue to help the system recover," said Zarembeg.

Staff Contact: Dominic DiMare

Pictorial Roster

Hard copies of the California Chamber of Commerce *Pictorial Roster* of state officials — statewide officers, Senate and Assembly members — are still available at no charge upon request while supplies last.

Simply e-mail requests, including name, company, address and contact information, to alert@calchamber.com.

A pdf file of the *Pictorial Roster* also can be downloaded at www.calchamber.com.

CalChamber Seeking Small Business Advocate Award Nominees

The California Chamber of Commerce has opened nominations for its Small Business Advocate of the Year award.

Nominees should have contributed significantly as an advocate for small business by being involved in such activities as taking leadership roles in or working on state or local ballot measures, testifying before the state Legislature, representing a local chamber of commerce before local government, and being actively involved on federal legislation.

Private sector, for-profit businesspersons who have been actively involved in advocacy on state, local or federal issues or political action would be excellent nominees. Chamber executives, government employees and association executives are not eligible.

The application for the award must include a letter of recommendation from a local chamber president or chair of the local chamber board of directors. News articles or other materials may be attached to the application to support the nomination.

Deadline

Award nominations are due to the CalChamber Local Chamber Department by April 6.

The CalChamber will recognize award winners at its Business Legislative Summit on May 21 in Sacramento.

The nomination form is available in the Government Relations section at www.calchamber.com or may be requested from the Local Chamber Department at (916) 930-1202.

CalChamber in Court

CalChamber Seeks U.S. High Court Review of State Restriction on Employer Free Speech

The California Chamber of Commerce has joined the U.S. Chamber of Commerce and other organizations in asking the U.S. Supreme Court to review a state law restricting employers' right to speak out on the unionization of their employees.

The law, CalChamber-opposed AB 1889 (Cedillo; D-Los Angeles) from 2000, forbids private employers that receive more than \$10,000 from a "state program" from engaging in any activity or communications "to assist, promote or deter union organizing," unless the employer can prove that the funds used for that activity did not come from the state.

Enforcement of the law has been delayed by order of the 9th U.S. Circuit Court of Appeals until the U.S. Supreme Court rules on whether it will review the case.

Small Business Impact

If AB 1889 is permitted to go into effect, employers face an accounting and re-

cord-keeping nightmare of maintaining separate books for state and private funds to assure compliance with the law.

The record-keeping requirements would be especially burdensome for small businesses, and wouldn't even be an option for small firms that depend entirely on state funds.

Conflict

In asking the U.S. Supreme Court to review the case of *Chamber of Commerce of the United States v. Lockyer*, the CalChamber and others argued that the California law conflicts with federal law, upsetting the balance between employer and employee rights established by the National Labor Relations Act.

A U.S. District Court agreed in 2002 that federal law pre-empts the state law. A three-judge panel from the 9th Circuit



Court of Appeals affirmed the district court decision.

In September 2006, however, the full 9th Circuit reversed the earlier court rulings. The 9th Circuit's 12-3 decision led the CalChamber and others to petition the U.S. Supreme

Court to review the case.

The U.S. Supreme Court's ruling will clarify which opinion prevails — the 9th Circuit's decision or those of other circuit courts that say the federal law trumps the state. At least 15 other states have proposed legislation imposing restrictions on employers similar to AB 1889.

The CalChamber and others requested U.S. Supreme Court review of the case in early January. The state originally had until early February to respond, but requested and has been granted an extension of the deadline until early March.

Staff Contact: Erika Frank

Court Rejects Water Board Fee Formula



Holders of water permits or contracts for water use in California ended an ongoing battle last month, when a court reversed part of a previous decision regarding fees being imposed by

the State Water Resources Control Board (SWRCB).

The California Court of Appeal, 3rd Appellate District, ruled that fees imposed by the board were valid, but the formula used to determine the fee was unconstitutional. The court said that the fees being applied were not proportionate to the services and benefits provided by the board.

In 2003, the California Farm Bureau Federation, the Northern California Water

Association, the Central Valley Project Water Association and individual fee payers filed suit to challenge the SWRCB's attempt to impose new annual fees on those holding water right permits and licenses and those contracting for water. The fees were enacted as part of SB 1049 (Senate Budget and Fiscal Review Committee; Chapter 741, Statutes of 2003).

The organizations and individuals alleged that the charges were invalid, unconstitutional and should be considered unlawful taxes. The trial court rejected that challenge.

On January 17, the court of appeal reversed part of that decision. It also ordered the SWRCB to adopt a new fee schedule within 180 days, as well as determine the amount of fees improperly assessed and refund fees that were unlawfully collected.

Staff Contact: Valerie Nera

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advised such recognized business leaders as Procter & Gamble, FedEx and Microsoft.

About CalChamber

CalChamber membership represents one-quarter of the private sector jobs in California and includes firms of all sizes and companies from every industry within the state. Leveraging the organization's front-line knowledge of laws and regulations, the CalChamber provides products and services to help businesses comply with both federal and state law. The CalChamber, a not-for-profit organization with roots dating to 1890, promotes international trade and investment in order to stimulate California's economy and create jobs.

Staff Contact: Vince Sollitto

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