

DISABILITY, MEDICAL LEAVE & SEVERANCE LEVERAGE

How accommodation, leave, timing, and documentation can change the value of a California separation negotiation.

THE ONE-SENTENCE RULE When termination follows a disability disclosure, accommodation request, medical leave, or return-to-work discussion, the timeline can be as important as the severance formula.

THE 60-SECOND DISABILITY-LEVERAGE TIMELINE

Event	Ask	Legal significance	Preserve
Medical disclosure	When did the employer learn of the condition or restriction?	Knowledge affects accommodation and motive analysis.	Email, note, HR ticket, doctor form.
Accommodation request	What change was requested and how did the employer respond?	FEHA requires reasonable accommodation absent undue hardship.	Requests, alternatives, approvals/denials.
Interactive process	Was there a timely, good-faith dialogue?	FEHA separately requires an interactive process.	Meeting invites, notes, proposed options.
Leave / return date	Was leave approved? Was a return date or extension discussed?	Leave law and accommodation law may overlap but are not identical.	Leave notices, certifications, return restrictions.
Adverse action	When did PIP, demotion, layoff selection, or termination occur?	Timing and shifting explanations can create leverage.	PIP, reviews, termination reason, comparators.

FIVE FEHA POINTS THAT OFTEN MATTER IN SEVERANCE

1. FEHA prohibits disability discrimination. Government Code section 12940(a) protects qualified employees from adverse action because of physical or mental disability, subject to statutory defenses. Gov. Code §12940 2. Reasonable accommodation is a separate duty. Section 12940(m) requires reasonable accommodation for known disability unless the employer proves undue hardship. Gov. Code §12940(m)	3. The interactive process is also a separate duty. Section 12940(n) requires a timely, good-faith interactive process to identify effective reasonable accommodations. Gov. Code §12940(n) 4. Requesting accommodation is protected. California law prohibits retaliation against an employee for requesting accommodation, whether or not the request is ultimately granted. Gov. Code §12940(m)(2) 5. Ability to perform essential duties remains central. The California Supreme Court has held that a disability-discrimination plaintiff must show the ability to perform essential duties with or without reasonable accommodation. Green v. State of California
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TURN THE MEDICAL-LEAVE STORY INTO A FACT TIMELINE

Leverage facts	Likely employer defenses	Negotiation targets
• Good performance before disclosure • Close timing after request/leave • No real interactive process • Available accommodation ignored • Shifting termination explanation	• Essential functions could not be performed • Undue hardship • Decision made before protected event • Legitimate documented performance • No employer knowledge	• Additional severance • Benefit / COBRA bridge • Neutral reference • Corrected separation reason • Narrow release / non-disparagement

DOCUMENTS TO COLLECT BEFORE SEVERANCE NEGOTIATION

- ☐ Accommodation requests and employer responses
- ☐ Medical restrictions shared with employer
- ☐ Interactive-process emails and meeting notes
- ☐ CFRA/FMLA/other leave notices
- ☐ Return-to-work notes and proposed dates
- ☐ Performance reviews before and after disclosure
- ☐ PIP, discipline, or layoff-selection documents

WHAT THE EMPLOYER WILL TEST	WHAT THE EMPLOYEE SHOULD SHOW
Calling a medical restriction an "attendance problem" does not make the medical paperwork disappear. Ask what document, witness, analysis, or contemporaneous explanation should exist if the company's position is genuine.	Email, note, HR ticket, doctor form. • Requests, alternatives, approvals/denials. • Meeting invites, notes, proposed options.

RELATED RUGGLES LAW FIRM READING

- Disability Discrimination & Retaliation in California
- My Leave of Absence Ended in Termination - Was This Discrimination?
- Fired While on Medical Leave in California
- The Interactive Process: California Employers Must Comply

CALIFORNIA STATUTES / REGULATIONS • Government Code section 12940 • Government Code section 12964.5 • Labor Code section 206.5	PUBLISHED CALIFORNIA CASES • Green v. State of California, 42 Cal.4th 254 (2007) • Nadaf-Rahrov v. Neiman Marcus Group, Inc., 166 Cal.App.4th 952 (2008)
 SCAN TO READ Disability Discrimination & Retaliation in California RugglesLawFirm.com	OFFICIAL RESOURCES Gov. Code §12940 CRD Leave Resources CRD CFRA Guide

"the plaintiff employee bears the burden of proving he or she was able to do the job, with or without reasonable accommodation."

— Green v. State of California, 42 Cal.4th 254 (2007)

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