BONUSES, COMMISSIONS & RSUS AT TERMINATION

A two-page guide to sorting earned compensation, contingent compensation, and severance leverage.

WHAT THE EMPLOYER WILL TEST	WHAT THE EMPLOYEE SHOULD SHOW
money already owed, money that depends on plan conditions, and money you can negotiate because the employer wants a release. HR may prefer one large gray bucket. Your bank account should not.	Separate an earned bonus from a future or contingent bonus. • Calculate it separately from severance; a release should not hide the math. • Unvested equity may be forfeitable, but lost vesting can still be negotiation...

THE 60-SECOND COMPENSATION TRIAGE MAP

Issue	What to ask	Legal status	Negotiation focus
Bonus	Were all written performance and employment conditions satisfied before separation?	**PLAN-DEPENDENT**	Separate an earned bonus from a future or contingent bonus.
Commission	Was the sale, revenue event, or other condition for earning the commission completed?	**WAGE IF EARNED**	Calculate it separately from severance; a release should not hide the math.
RSUs / options	Which tranches are vested? What does the grant or equity plan say happens at termination?	**PLAN-DRIVEN**	Unvested equity may be forfeitable, but lost vesting can still be negotiation leverage.
Retention / sign-on	Is the company demanding repayment, a fee, or a penalty because employment ended? When was the contract signed?	**2026 RULES MAY APPLY**	New California “stay-or-pay” limits can matter; the exceptions are technical.
Final wages / PTO	Are earned wages, commissions, bonus amounts already due, and accrued vacation included in final pay?	**DUE IF EARNED**	Do not exchange money already owed for the employer’s release.

FIVE CALIFORNIA RULES THAT CONTROL THE MONEY

1. Earned wages are not severance. California defines wages broadly, and earned unpaid wages are due immediately on discharge. A willful failure can trigger up to 30 days of waiting-time penalties. Lab. Code §§200, 201, 203
2. Earned commissions must be paid. The Labor Commissioner states that commissions earned by termination are final wages; if a legal condition precedent occurs later, payment is due when that condition occurs. DLSE Final Pay FAQ
3. Bonus rights turn on the agreed conditions. A promised bonus becomes wages when the employee satisfies the agreed conditions. A clearly written active-employment condition may matter. Neisendorf v. Levi Strauss & Co. (2006) 143 Cal.App.4th 509. The court expressly did not decide a wrongful-discharge/bad-faith scenario.
4. Equity can be compensation without being fully earned. The California Supreme Court held that restricted stock could be compensation while continued employment remained a condition to full vesting. Schachter v. Citigroup, Inc. (2009) 47 Cal.4th 610. Plan language matters.
5. California added new 2026 “stay-or-pay” limits. For contracts entered on or after January 1, 2026, certain repayment, debt, fee, and penalty terms triggered by separation are unlawful, subject to detailed exceptions. Bus. & Prof. Code §16608; Lab. Code §926. This is not a blanket rule vesting unvested equity.

EARNED, CONTINGENT, OR NEGOTIABLE? SORT IT BEFORE YOU SIGN

Usually owed if earned	Depends on plan terms	Negotiable in severance
• Salary through the last day worked • Earned commissions • Earned bonus after all conditions are met • Accrued unused vacation • Other earned wage components	• Unvested RSUs / stock options • Future bonus requiring continued employment • Deferred compensation / §409A terms • Retention or sign-on repayment terms • Change-in-control triggers	• RSU acceleration or cash equivalent • Extend employment through a vesting date • Pro rata or guaranteed bonus treatment • Commission claim carve-outs • Extended option exercise window • Consulting / transition arrangement

BEFORE YOU SIGN: THE COMPENSATION DOCUMENT CHECKLIST

☐ Severance agreement and every exhibit/addendum
☐ Offer letter, employment agreement, and any compensation summary
☐ Bonus/incentive plan, target metrics, scorecards, and payout history
☐ Commission plan, quota documents, CRM/deal records, and approval emails
☐ Equity plan, grant notices, RSU/option agreements, and vesting schedule
☐ Screenshots or statements showing share counts, vesting dates, and plan balances
☐ Retention/sign-on bonus, clawback, change-in-control, or deferred-comp documents

FROM THE EMPLOYER'S SIDE: Do the math before HR does it for you. Put every dollar in one of three buckets: owed, contingent, or negotiable. Employers sometimes prefer one big gray bucket, possibly because gray is inexpensive. Ask what document, witness, analysis, or contemporaneous explanation should exist if the company's position is genuine.

EMPLOYEE RESPONSE: Test the employer's label against the contemporaneous record and price every term—not only the cash payment.

RELATED RUGGLES LAW FIRM READING

• Complete Guide to California Tech Layoff Severance, RSUs, and Executive Compensation
• How to Negotiate RSU Acceleration in California Severance Agreements
• Laid Off With RSUs in California: When Lost Equity Creates Severance Leverage
• Negotiating Severance for California Finance and Fintech Employees

CALIFORNIA STATUTES / REGULATIONS	PUBLISHED CALIFORNIA CASES
• Labor Code section 200 • Labor Code section 201 • Labor Code section 2751	• Schachter v. Citigroup, Inc., 47 Cal.4th 610 (2009) • Neisendorf v. Levi Strauss & Co., 143 Cal.App.4th 509 (2006) • Sciborski v. Pacific Bell Directory, 205 Cal.App.4th 1152 (2012)

SCAN TO READ
Complete Guide to California
Tech Layoff Severance, RSUs,
RugglesLawFirm.com

OFFICIAL RESOURCES DLSE Final Pay FAQ | File a Wage Claim | 2026 Stay-or-Pay Statute

> *"Only when an employee satisfies the condition(s) precedent ... can that employee be said to have earned the incentive compensation."*
> — Schachter v. Citigroup, Inc., 47 Cal.4th 610 (2009)