

In The News

Akerman Lawyers Mishell Taylor and Zoe Bekas Champion Importance of Documentation Amid Rising Workplace Retaliation Claims

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Workplace retaliation claims under state and federal laws are on the rise, and some states have implemented regulations, such as California’s whistleblower protection statute, making those claims more difficult for employers to defeat. Labor and employment partner [Mishell Taylor](#) and associate [Zoe Bekas](#) in Los Angeles explained in a *Law360* article that amassing evidence is critical to successfully defend legitimate employment decisions. They suggest best practices when it comes to management training, contemporaneous decision-maker documentation, and record keeping obligations to meet evidentiary standards by states.

The authors wrote: “Because of the varying frameworks and burdens of proof that organizations must meet to defeat employment-related claims, decision makers must appreciate the importance of contemporaneous documentation and record-keeping obligations.

“The document creation and retention protocol of employment-related documentation can make or break a defense, particularly in states with high evidentiary burdens on employers. Documentation is especially helpful if it predates the alleged protected activity, as such documentation can

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overcome the nexus between the complaint and the alleged retaliatory action.

“With average employee tenure dropping significantly over the last few years, businesses should invest in ensuring that decision makers are trained on how to document workplace performance issues.”

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