



HILL, FARRER & BURRILL LLP

## TWENTY QUESTIONS TO ASK BEFORE DECIDING TO TERMINATE AN EMPLOYEE IN CALIFORNIA



1. Length of Employment
2. Employment Agreement/Arbitration Agreement/Union Agreement
3. Signature of Acknowledgement of Employment Handbook page, and At-Will Relationship
4. Size of Company nationally and in California, existence of FMLA, anti-harassment, or arbitration policies
5. Prior Discrimination or Harassment Complaints
6. Knowledge of prior claims against Company or other employers
7. Complaints about safety or other matters affecting other employees in the workplace
8. Complaints about receiving all pay owed and response
9. Knowledge of any serious health condition or disability, and pending workers' compensation claims
10. Efforts to accommodate any disability, and to engage in the "interactive process" to determine if an accommodation is possible
11. Knowledge of current or past drug addiction or alcoholism, and whether the employee has made any request for rehabilitation
12. Age, gender, race, and known sexual orientation of employee
13. Comments regarding intent to file claims
14. Existence of positive or negative performance reviews in employee file, and contents of most recent review
15. Has employee been warned of the conduct before?
16. Verbal or written assurances of progressive discipline or permanent employment, termination only for cause, or other promises of job security
17. Knowledge of any untrue information in employment application/resume
18. Knowledge of other employees with similar complaints/potential claims
19. Willingness to review poor performance or misconduct with employee and provide a final warning or "management by objectives" performance plan
20. Willingness to offer some form of severance, and a separation agreement and release in accordance with the Company's severance pay practices or plan

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