



## Fire Agencies Insurance Risk Authority

Susan Blankenburg, General Manager  
1255 Battery Street, Suite 450  
San Francisco, CA 94111  
Office 415.536.4005 Fax 415.536.8499

Date: October 9, 2015

From: Susan Blankenburg

SUBJECT: WRONGFUL TERMINATION / RETALIATION / FAILURE TO PROMOTE OR HIRE  
TWO (2) HOURS CONSULTATION – NO COST TO THE DISTRICT

Most Fire Districts have various risks and exposures that generate claims – it is inherent with the work that you do. However, FAIRA has become somewhat unique in having a larger amount of what's known as employment practices liability (EPL) claims. These types of claims are associated with how personnel actions and decisions are carried out by management at the District and Board level. Over the last six fiscal years, FAIRA has seen 77 claims totaling \$3.4 million dollars in loss. As a point of reference, FAIRA's EPL claim rate per \$1 million of payroll is 0.13, whereas, other organizations typically see their EPL claim rates per \$1 million of payroll at 0.04. FAIRA's EPL claim rate is higher (four times) than other public entity organizations that can be due to fact that most public agencies have fulltime Human Resource Directors and access to General Counsel.

The type of EPL claims FAIRA members have experienced include:

- Wrongful termination based on employee race or the Americans with Disabilities Act;
- Failure to hire or promote;
- Whistle blower claims where the claimants felt retaliated against for reporting violations of Cal/OSHA and other labor laws; and
- Wage and hour disputes as well as improper compensation based on non-exempt employee status.

If the rate of EPL claims were reduced by half, a savings of over \$1.7 million would be generated. This reduction in losses translates to a lower loss ratio, which ultimately produces a lower premium.

There are a variety of methods to eliminate and defend against such claims, one of which is ensuring that proper legal procedures are followed when taking action against employees. In spirit of this partnership, FAIRA has contracted with Peter Flanderka, an employment litigation attorney who will provide consultation for two hours **at no cost to your District**. This provides your District the opportunity to discuss disciplinary actions like termination, suspension or demotion with prudent defensible methods concerning employment actions.

As a FAIRA member, we are requesting your cooperation in managing FAIRA's risks when faced with potential EPL situations. Mr. Flanderka's contact information and qualifications have been provided on his biography attached.

Best regards,

cc: Marco Guardi, FAIRA Loss Control Consultant



## Peter Flanderka

*Partner*

### OVERVIEW

Peter Flanderka is a partner in the Los Angeles office. He focuses his practice on employment litigation, both in the public and private sectors. The matters he handles include cases alleging wrongful termination, discrimination, sexual harassment, civil rights violation, breach of contract, wage and hour violation, defamation and related emotional distress.

Peter has litigated matters before all California-based state and federal courts, the Department of Fair Employment and Housing, the Equal Employment Opportunity Commission, the Unemployment Insurance Appeals Board, the Division of Labor Standards Enforcement (Labor Commissioner) the Workers' Compensation Appeals Board and the Federal Office of Civil Rights.

Peter also assists employers in drafting employee handbooks, personnel policies and procedures, employment agreements, and other documents. His practices includes providing advice to employers on day-to-day employment issues, including investigation of harassment and discrimination complaints, disciplinary action, wage and hour questions, and compliance with state and federal laws.

Peter frequently speaks to conferences and employer groups on employment and labor issues. He has written articles on a variety of workplace-related topics, including "Family and Medical Care Leave Survival Guide: A Desktop Outline of the Law Affecting Employers."

Peter is a member of the Labor and Employment Law sections of the American Bar Association, the California State Bar and the Los Angeles County Bar Association.

### EXPERIENCE

#### Bar Admissions

California

#### Court Admissions

U.S. District Court for the Central District of California

#### Professional Activities

California State Bar, 1989 - Present

Los Angeles County Bar Association, 1989 - Present

American Bar Association, 1989 - Present