

BASE

The Bar Association of San Francisco

Six-Figure Settlement in Medical Disability Case

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A sudden, emergency surgery would be troubling in most situations. An emergency surgery due to a ruptured ectopic pregnancy, followed by medical complications and getting fired for missing work, would be traumatic.

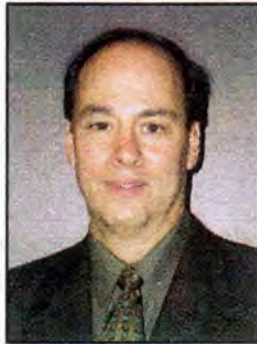
Regrettably, this was the situation for a woman who contacted LRIS for legal assistance. She had worked as an executive assistant and had excellent performance reviews. But when her medical needs caused her to miss work, the woman was fired for her absences despite her doctor not releasing her to return to work.

The woman contacted LRIS looking for a referral to an attorney experienced in employment law the day after she was fired. Within a few days she was seated in the office of Employment Panel attorney, Douglas Kahn, for her initial consultation. Kahn agreed to take the case believing that the employer had violated California's Fair Employment and Housing Act (FEHA), which prohibits an employer from discriminating against an employee's disability or disabling medical condition. Kahn also saw that the employer had failed to reasonably accommodate the client's need to miss work due to her pregnancy-related medical condition, and that it owed her

overtime pay as it had misclassified her as an exempt employee.

Once Kahn contacted the client's former employer, he discovered that the employer mistakenly believed it was okay to fire the client because she had already used up her available leave time under the Family Medical Leave Act (FMLA). Kahn informed the employer that this did not excuse it from having to accommodate her under FEHA. The employer nevertheless balked at settling the case, contending that letting her take further time off would have been a hardship on the business. The parties agreed to mediation. Through that process, the client received a six-figure settlement, leaving her satisfied that justice had been served.

Kahn has practiced employment law for 25 years. He recalls as a teenager having heated debates with his father about worker's rights in regards to his father's warehousing business in Chicago. After completing law school at Georgetown in Washington, D.C., the tall ski mountains in California lured him out west in 1985. Kahn says it has all worked out well since "California is at the leading edge of employment law nationwide."



Douglas Kahn