



Civil Rights Department

2218 Kausen Drive, Suite 100 | Elk Grove | CA | 95758
800-884-1684 (voice) | 800-700-2320 (TTY) | California's Relay Service at 711
www.dfeh.ca.gov | contact.center@dfeh.ca.gov

August 8, 2022
For Immediate Release

Contact: Fahizah Alim (916) 585-7076
Fahizah.Alim@dfeh.ca.gov

Appellate Court Rules California Civil Rights Department Not Bound By Private Arbitration Agreements

Court Also Clarifies Standard for Use of Pseudonyms in Litigation to Protect Privacy

Sacramento – The California Court of Appeal ruled on Friday that a private arbitration agreement between an employee and employer cannot prevent the California Civil Rights Department (CRD) (formerly DFEH) from filing an action in court. In a separate but related ruling, the Court of Appeal clarified the standard for allowing a party to litigate anonymously in California, ruling that the trial court erred by not considering an employee's fears for his family's safety in India when ruling that he could not proceed anonymously.

On October 16, 2020, CRD filed a lawsuit under the California's Fair Employment and Housing Act (FEHA), against Cisco Systems, Inc. (Cisco) and two managers for caste-based discrimination, harassment, and retaliation. The lawsuit alleged the defendants discriminated against an engineer at Cisco's San Jose campus on the basis of his religion, ancestry, national origin/ethnicity, and race/color because he is Dalit. Due to the stigma and potential threats of violence associated with a person's status as Dalit, CRD requested that the employee be identified by the fictitious name "John Doe." Soon after the case was filed, the trial court denied Cisco's motion to compel CRD to arbitration based on the Complainant's individual arbitration agreement, and the trial court denied CRD's motion to allow the Dalit complainant to proceed anonymously. Both decisions were appealed.

"The Court of Appeal's decision affirms the Department's role as a public prosecutor enforcing public rights in California," said CRD Director Kevin Kish. "As the Court recognized, CRD is the public arm of workplace civil rights enforcement and acts independently when it brings a lawsuit. It is not constrained by private arbitration agreements."

The court stated:

We note "the public policy of this state that it is necessary to protect and safeguard the right and opportunity of all persons to seek, obtain, and hold employment without discrimination or abridgment on account of race, religious creed, color, national origin, ancestry," or other protected characteristics. (§ 12920.) To implement that policy, the Legislature created the Department and gave it broad powers to investigate employment discrimination complaints and bring civil actions against violators when necessary. The Department acts independently when it exercises the power to sue for FEHA violations. As an independent party, the Department cannot be compelled to arbitrate under an agreement it has not entered.

Read the full decision here: [No. H048910](#)

In a separate decision, the appellate court also held that the trial court must reconsider its ruling requiring the employee to be identified by name in the litigation. Clarifying an important standard in California law, the Court of Appeal held that “evidence of potential harm to family members anywhere is a legitimate concern in determining whether a party should be granted anonymity in litigation.”

Read the full decision here: [No. H048962](#)

CRD Assistant Chief Counsel Alexis McKenna, Associate Chief Counsel Siri Thanasombat, and Chaya Mandelbaum and Michelle G. Lee from Rudy, Exelrod, Zieff & Lowe, L.L.P., represent the California Civil Rights Department in this matter.

The cases are captioned [Cisco Systems, Inc. et al. v. Department of Fair Employment and Housing, Case No. H048910](#) and [Department of Fair Employment and Housing v. Superior Court, Case No. H048962](#) (Sixth Appellate District)

###

CRD is the state agency charged with enforcing California’s civil rights laws. The mission of CRD is to protect the people of California from unlawful discrimination in employment, housing and public accommodations and from hate violence and human trafficking. For more information, visit CRD’s web site at www.dfeh.ca.gov.

