



## Coffee Club

My Unusual Emotional Support  
Animal — *Employer obligations regarding  
service/emotional support animals*



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## Introduction

Welcome to the AALRR monthly "Coffee Club" Webinar Series. Our series will focus on labor and employment law issues facing California employers and will provide you with a unique understanding and perspective on a variety of interesting and timely topics.

Join us the first Tuesday of every month  
@ 10:00 am for a new and exciting topic.

Today, we will be discussing *My Unusual Emotional Support Animal — Employer obligations regarding service/emotional support animals.*

Next Month, Let's Review the DOL Regulations Regarding Overtime Exemption



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## Disclaimer | Housekeeping

This AALRR presentation is intended for informational purposes only and should not be relied upon in reaching a conclusion in a particular area of law. Applicability of the legal principles discussed may differ substantially in individual situations. Receipt of this or any other AALRR presentation/publication does not create an attorney-client relationship. The Firm is not responsible for inadvertent errors that may occur in the publishing process.



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## Agenda

- Service Animals
  - ADA Rules
  - FEHA Rules
- Tips for Employers



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## ADA Definition of Service Animal



- A "service animal" is defined as "any dog that is individually trained to do work or perform tasks for the benefit of an individual with a disability, including a physical, sensory, psychiatric, intellectual, or other mental disability."

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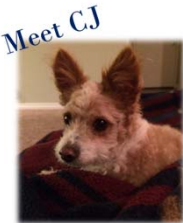
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## Service Animals

- While Emotional Support Animals or Comfort Animals are often used as part of a medical treatment plan as therapy animals, they are not considered service animals under the ADA.



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*I Am Working...*

**SERVICE ANIMAL**

**ROCKY**

Handler: Thomas Gilroy  
Valid: May 21, 2020  
Registration #: 98746

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ADA "Psychiatric Service Animal" vs.  
Emotional Support Animal

**TEST:**

- What tasks are they trained to perform?
- Recognition and Response

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What Can An Employer Ask Under The  
ADA?

Is the animal  
required because of  
a disability?

What work or tasks  
is the animal  
trained to do?

**Don't ask if it is obvious.**

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### Exceptions



- Animal is out of control
- The animal is not broken
- Employer can demonstrate that modifying its policies, practices, or procedures will “fundamentally alter the nature of the goods, services, facilities, privileges, advantages, or accommodations.”

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### “Direct Threat Defense”



- A “direct threat” is defined as “a significant risk to the health or safety of others that cannot be eliminated by a modification of policies, practices, or procedures or by the provision of auxiliary aids or services.”

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### FEHA Definition of Assistive Animal



- Under the FEHA, an assistive animal is not limited to dogs, but includes any “trained animal” that is necessary as a reasonable accommodation for a person with a disability.
- According to the regulations, specific examples include:
  - “Guide” dogs - trained to guide a blind or visually impaired person
  - “Signal” dogs, or other animal trained to alert a deaf or hearing impaired person to sounds
  - “Service” dogs or other animal individually trained to the requirements of a person with a disability, and
  - “Support” dogs or other animal that provides emotional or other similar support to a person with a disability, including, but not limited to, traumatic brain injuries or mental disabilities, such as major depression.

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### Under FEHA, Employer May Require:



1. Animal is free from offensive odors and displays habits appropriate to the work environment, for example, the elimination of urine and feces; and
2. Animal does not engage in behavior that endangers the health or safety of the individual with a disability or others in the workplace

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### What Can An Employer Require Under FEHA?

A letter from the employee's health care provider stating that the employee has a disability and explaining why the employee requires the presence of the assistive animal in the workplace

Confirmation that the animal meets the minimum standards, including that the animal has been trained to provide assistance for the employee's disability

**Don't ask if it is obvious.**

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### Questions?



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# Thank You

For questions or comments, please contact:

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