



CONSTRUCTIVE DISCHARGE IN CALIFORNIA: DID I QUIT OR WAS I FIRED?

If intolerable working conditions forced you to quit, California's constructive discharge doctrine may treat your resignation as a firing, along with the legal rights a firing carries.

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BY KYLE D. SMITH

Kyle D. Smith is a California employment lawyer and the author of the articles on WorkLawyers.com. He represents employees in disputes with their employers, from unpaid wages and misclassification to wrongful termination.

He writes these guides to put the state's labor laws into plain English, in neutral terms, with a citation for every claim.



California employees sometimes face a difficult situation: their working conditions have become so intolerable that they feel they must quit. California law does not always treat that resignation as simply quitting. Under the doctrine of constructive discharge, when an employer's conduct effectively forces an employee to resign, the law can treat the resignation as a firing rather than a voluntary quit.¹

Constructive discharge² holds employers accountable for making a workplace so intolerable that an employee is forced to quit. It can also be very important in determining whether employees are entitled to additional compensation from their former employer.

Why Is Constructive Discharge Important?



If employees are fired, they have several rights that they don't have if they resign. Examples vary from case to case, but they often include:

-  Stronger eligibility for unemployment benefits.
-  The right to a wrongful termination lawsuit.
-  Increased damages in retaliation or discrimination lawsuits.

For example, employees generally cannot sue their employer for wrongful termination if they voluntarily resign or quit (although they might have other grounds for a lawsuit). This creates a perverse incentive for employers who want to fire employees: they can avoid wrongful termination lawsuits if they can somehow get the employees to quit first.³

To combat this kind of problem, courts in California have adopted the doctrine of constructive discharge. As mentioned above, constructive discharge occurs when the employer's conduct effectively forces an employee to resign.⁴

If an employee is found to have been constructively discharged, they will be entitled to all the same benefits as an employee who was fired. Also, where an employment contract requires good cause for termination, the doctrine of constructive discharge prevents employers from forcing their employees out if no good cause exists.

For these reasons, the doctrine of constructive discharge is an important one in securing employee rights.

When Does Quitting Your Job Become Constructive Discharge?



In general, an employee must be treated so poorly that a court will view the termination as having been coerced. According to the California Supreme Court: “Constructive discharge occurs when the employer’s conduct effectively forces an employee to resign.”⁵

If a constructive discharge is found to have occurred, the employment relationship is deemed to have been terminated involuntarily by the employer’s acts, even if the employee may say “I quit.” In this sense, a constructive discharge is legally treated as a firing, rather than a resignation.⁶

2.1 Proving Constructive Discharge

The California Supreme Court’s formulation of the constructive discharge doctrine gives us an idea of why courts have the doctrine, but it doesn’t really explain what employees need to show to prove that their resignation was actually a termination.

The courts have therefore adopted an objective test to determine if a resignation is actually a constructive discharge: Did the employer either create or knowingly permit work conditions that were so intolerable that a reasonable employer would realize that a reasonable person in the employee's position would be compelled to resign?⁷

In constructive discharge cases, the intolerable conditions must have been sufficiently extraordinary and egregious to overcome the normal motivation of a competent, diligent, and reasonable employee to remain on the job to earn a livelihood and to serve his or her employer.⁸ The employer must also have either created those conditions or known about them and failed to fix them.⁹

Importantly, these intolerable work conditions must have been present at the time that the employee resigned. They must also be continuous; single, trivial, or isolated acts of misconduct by an employer are generally insufficient.¹⁰

So, to break this test down, an employee must prove the following elements to show that they were constructively discharged:

-  Intolerable work conditions existed at the time of the employee's resignation.
-  The work conditions are so unusually adverse that a reasonable employee would have felt compelled to resign.
-  The employer intentionally created or knowingly permitted these intolerable work conditions.
-  A reasonable employer would have realized that a reasonable person in the employee's position would be compelled to resign.

2.2 Intolerable Work Conditions, Defined

The biggest hurdle in determining whether a resignation is a constructive discharge is whether work conditions were intolerable. The bar to showing intolerable work conditions is actually pretty high. Intolerable work conditions often include constant yelling, screaming, intimidating, or disparaging a plaintiff.¹¹

On the other hand, California courts have found that the following situations alone do **not** result in intolerable work conditions:¹²

-  A reduction in pay.
-  A demotion.

- ✕ A transfer to a different branch.
- ✕ Single incidents of mistreatment.
- ✕ Reassignment to graveyard shifts.
- ✕ A former subordinate's promotion over the employee, requiring the employee to answer to a person they used to supervise.
- ✕ Unfair performance evaluations.

What Can Employees Do?



If an employee hasn't quit yet, they should talk to an employment lawyer about the facts of their situation. Employees should *not* assume that their working conditions meet the test necessary for a constructive discharge. If they make the assumption that their resignation is a termination, they may be incorrect and they may be waiving important rights. Instead, it's best to discuss these issues with a lawyer comfortable with constructive discharge issues.

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If, on the other hand, the employee has already quit, that employee may have important legal rights. These legal rights may have short time limits, however. So it is important for the employee to act fast. The employee should contact an employment

lawyer to determine whether their employer violated their rights and perhaps wrongfully terminated them through a constructive discharge.

References

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| 1 | <i>Turner v. Anheuser-Busch, Inc.</i> (1994) 7 Cal.4th 1238, 1244–1245. |
| 2 | Sometimes called <i>constructive dismissal</i> or <i>constructive termination</i> . |
| 3 | <i>Turner v. Anheuser-Busch, Inc.</i> (1994) 7 Cal.4th 1238, 1244 [“In an attempt to avoid liability, an employer may refrain from actually firing an employee, preferring instead to engage in conduct causing him or her to quit.”]. |
| 4 | <i>Turner v. Anheuser-Busch, Inc.</i> (1994) 7 Cal.4th 1238, 1244. |
| 5 | <i>Turner v. Anheuser-Busch, Inc.</i> (1994) 7 Cal.4th 1238, 1244. |
| 6 | <i>Turner v. Anheuser-Busch, Inc.</i> (1994) 7 Cal.4th 1238, 1244–1245. |
| 7 | <i>Turner v. Anheuser-Busch, Inc.</i> (1994) 7 Cal.4th 1238, 1251. |
| 8 | <i>Turner v. Anheuser-Busch, Inc.</i> (1994) 7 Cal.4th 1238, 1246. |
| 9 | <i>Gibson v. Aro Corp.</i> (1995) 32 Cal.App.4th 1628, 1640, citing <i>Turner v. Anheuser-Busch, Inc.</i> (1994) 7 Cal.4th 1238, 1251. |
| 10 | <i>Turner v. Anheuser-Busch, Inc.</i> (1994) 7 Cal.4th 1238, 1247, 1251. |
| 11 | <i>Steele v. Youthful Offender Parole Board</i> (2008) 162 Cal.App.4th 1241, 1259. |
| 12 | See <i>Turner v. Anheuser-Busch, Inc.</i> (1994) 7 Cal.4th 1238, 1247; <i>Gibson v. Aro Corp.</i> (1995) 32 Cal.App.4th 1628, 1635, 1637. |
| 13 | <i>Turner v. Anheuser-Busch, Inc.</i> (1994) 7 Cal.4th 1238, 1251. |