

The logo for Renne Public Law Group (RPLG) features the letters "RPLG" in a bold, blue, serif font, centered within a white rectangular box. The background of the slide is a photograph of a classical building with white columns and a blue sky with light clouds.

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## Best Practices for Cost-Effective, Efficient, and Defensible Workplace Investigations

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# Cost-Effective, Efficient, and Defensible Workplace Investigations

- I. Intake & Scope
- II. Planning the investigation
- III. Interviews
- IV. Credibility & Findings

# Why Cost Matters in Workplace Investigations

- Investigations must be **efficient, prompt, thorough, impartial,** and **defensible.**
- Costs escalate when scope drifts, when interviews are unfocused, or when work is duplicated.
- Efficient structure = legally defensible structure.
- Today's session focuses on techniques that reduce cost **without sacrificing quality or defensibility.**

## Cost Effective Measures

- Send a client questionnaire before beginning
  - Collect background information and documents from client up front
- Leverage technology to streamline documentation
- Conduct interviews via Zoom when appropriate
  - Limits travel and transcript costs
- Avoid unnecessary transcripts – Zoom transcript may be enough
- Bundle the interviews
- Use standardized templates (investigation plan, interview outlines, reports & executive summaries)

# Efficiency Without Cutting Corners

- Cost savings never replace legal standards.
- Efficient investigations still require:
  - Correct scope
  - Skilled interviewing
  - Proper credibility assessment
  - Clear documentation

# Investigation

- Let's take a look at these elements in action.
- We have been retained by CalPELRA Law to investigate alleged favoritism involving Partner Michael and Associates Mellisa and Tae.
- Keep an eye out for issues.

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# Issue Identification

- What is actually being alleged?
- Is favoritism unlawful?
- Is a protected category implicated?
- Do we have to investigate anyway?

# Who should conduct the investigation?

- Impartial, objective, neutral fact-finder with necessary skills
- Trained in interviewing and making credibility determinations
- Not a witness or a person who is involved in any way with the issues in the investigation
- Not advising the entity
- Not litigating on behalf of the entity

# Scope of Investigation – Best Practices

- Define the scope upfront and document it!
  - Who sets the scope?
  - Narrow or broad – refine the scope before writing the report
  - Can it change over time?
  - Are the findings aligned with the scope? Address only the issues you were asked to investigate
  - Monitor for scope creep.
- Assess new issues thoughtfully.
  - Obtain authorization before expanding.
  - Consult with the client to decide whether to consolidate or address additional issues in a separate report.

## Why Scope Matters: Cost & Defensibility

- Controls the entire investigation – dictates witness list, document requests, and interview strategy.
- Prevents unnecessary work. Narrow, well-defined issues reduce time spent on irrelevant history or tangents.
- Keeps the investigation efficient. Clear scope avoids repeat interviews.
- Supports legal defensibility. Findings tied directly to the approved scope withstand scrutiny in litigation.
- Minimizes delays and cost overruns.
- Streamlines report drafting and ensures the report stays focused.

# Defining and Containing Scope

- Here we are meeting with HR Director Sonia regarding the background and scope of the investigation into alleged favoritism.
- Our goal is to keep the intake focused, despite the client's attempts to broaden the subject.

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**“Nepotism”** is defined as the practice, among those with power or influence, of favoring relatives or friends in the workplace, especially through preferential hiring, promotion or otherwise privileged treatment.

## Debrief: What is the scope of the investigation?

- What do you think?

### How to Control Scope:

- Redirect gently but firmly
- Convert vague complaints into factual allegations
- Document agreed scope
- Get written approval before expanding

Get organized!

Draft an investigation plan.

- Helps you remember the scope
- Identify correct witnesses
- Plan interview questions
- Keep track of (conflicting) evidence
- Keep track of credibility of each witness
- Identify documents
- Plan order of interviews
- Review plan often to remind you of scope

- Preparing for Interviews
  - Key topics or questions? Both?
  - Gather relevant documents – policies, procedures, personnel records, written complaints
  - Logistics – neutrality, privacy, comfort of the interviewee, ability of the interviewee to leave the room
    - Choose a neutral and private location
  - After each interview, be prepared to do a quick credibility analysis

- We at CalPelra Law have follow-up questions for Michael.
- Keep an eye out for credibility flags.



Michael Zitani

# What do think?

**What do you think????**

## Cost effective measures to consider

- Record or not record?
- Zoom transcription of interview instead of paying for transcription
- Draft summaries after the interview and add to the report – utilize technology or not?
- Conduct credibility determinations immediately after the interview
  - Go through the credibility checklist

## Findings & Reporting

- Start early! Begin the report immediately after the first interview
- Do you have enough evidence?
- Assess conflicting evidence – outline
- Tie findings back to scope
- Standard of proof (“50% plus a feather”)
- Review the scope again – you may already have enough evidence to write the findings

# How to make your investigation defensible?

- Be neutral
- Be thorough
- Be prompt
- Be organized
  - Maintain a clean and organized file
  - Preserve emails between you, your client, and witnesses
  - Keep a separate folder in the file for: investigation plan, interview notes, interview summaries, emails, attorney notes, recordings, transcripts of recordings, and reports.
  - Maintain last two drafts of report and of the final report
- Assume scrutiny: prepare as if you may be called as a witness

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**Thank you!**

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