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This is a blog. Case summaries and notes are written by Peter Y. Chang, Esq. unless otherwise attributed.

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Award of attorney's fees to defendant school district under provisions in Individuals with Disabilities Act (IDEA) was reversed where unsuccessful claims were nonetheless plausible. Appellate court, in reversing the district court's decision awarding school district attorney's fees, affirmed lower court's dismissal of plaintiffs' claims but found claims were not frivolous, unreasonable, or lacking in foundation or proper purpose, citing *inter alia* civil rights fee-shifting provisions and a chilling effect on litigation. R.P. v. Prescott Unified Sch. Dist., 2011 U.S. App. LEXIS 2173.

Employers must take care not to violate statutory provisions ensuring employee rights in California. One such provision is California Government Code section 12940, which bars discrimination on the basis of disability. Incidents creating an objectively hostile working environment, that is subjectively unwelcome and unwelcome and interferes with an employee's work should raise red flags. Employers should note that malice and ill will may be found and under the appropriate circumstances, punitive damages may be awarded against the employer based on California Civil Code section 3294.