

## Zuckerberg's Remarks Pose Legal Risk For Meta Amid Layoffs

By **Andi Mazingo** (February 6, 2025)

Troubling leadership statements and decisions can have profound implications, translating into potential claims under California employment law. At influential companies like Meta Platforms Inc., leadership decisions not only shape internal workplace culture, but also set the tone for norms across industries.

Meta's recent decision to cut 5% of its lowest-performing employees[1] has reignited debates about workplace equity and drawn attention from other high-profile corporate leaders.[2]



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While layoffs are a familiar strategy in a competitive tech sector, troubling leadership statements and decisions surrounding this announcement warrant closer scrutiny.

On Joe Rogan's podcast last month, Mark Zuckerberg said corporations are becoming "culturally neutered," need to bring back "masculine energy" in the workplace and praised "a culture that celebrates the aggression a little more." These comments, coupled with his assertion that diversity and inclusion efforts "can always go a little far," stand out starkly in a broader corporate trend.[3]

Many companies have scaled back diversity, equity and inclusion initiatives following the U.S. Supreme Court's 2023 decision on affirmative action in *Students for Fair Admissions Inc. v. President and Fellows of Harvard College*. [4] However, most have approached the shift cautiously, issuing carefully worded statements that avoid prioritizing one group over another. [5]

In contrast, Zuckerberg's remarks risk signaling a preference for traits that could disproportionately disadvantage women, nonbinary and LGBTQ+ employees.

Adding to the controversy, Zuckerberg recently appointed Ultimate Fighting Championship President Dana White to Meta's board of directors. White — a polarizing figure with no background in social media technology — has been publicly criticized for defending UFC fighters' homophobic and transphobic remarks, [6] dismissing mental health concerns, [7] and exhibiting personal behavior that has sparked outrage. [8]

In addition to White's appointment, there are reports of Meta deleting internal employee criticism of the decision, underscoring growing concerns about the company's leadership priorities. [9]

For attorneys advising corporations that are undergoing changes to their DEI programming, or strategizing to appeal to newly inaugurated President Donald Trump, these developments are a critical reminder of how statements and cultural priorities at the top can translate into potential claims under California employment law.

## **Zuckerberg's comments are likely to create viable claims.**

Under California's Fair Employment and Housing Act, leadership comments that reflect potential bias can play a pivotal role in employment disputes.

Statements that reveal a preference for aggression and masculine energy in the workplace could be used as direct evidence of discriminatory intent in disparate treatment claims. These claims arise when an employer intentionally discriminates against a protected group, such as women, nonbinary or LGBTQ+ employees.

For example, in *Martin v. Board of Trustees of the California State University* in 2023, a California state appeals court reaffirmed that discriminatory animus need only be a substantial motivating factor for an adverse employment action.[10]

Leadership statements, like those made by Zuckerberg, could be viewed as reflecting such animus, particularly when made in the context of layoffs.

In fact, Zuckerberg's remarks likely create a triable issue as to Meta's motivations, because they pertained to the composition of its workforce and came out merely days before his layoff announcement. This signals favorable odds that discrimination and wrongful termination claims would survive summary judgment.[11]

Leadership statements can also aid employees in stating disparate impact claims, which arise if neutral policies disproportionately harm protected groups.

To the extent that Meta does not make demographic data available to employees when the layoffs occur, those who file a lawsuit could defend against a subsequent motion to dismiss their disparate impact claims by citing anecdotal evidence, including the context of Zuckerberg's remarks about masculinity and related actions.[12]

Then, during the discovery period, plaintiffs would likely be entitled to demographic data for affected and nonaffected employees to determine whether there is a statistically reliable pattern of discrimination.[13]

Finally, White's appointment to Meta's board and Zuckerberg's subsequent comments may also give rise to retaliation claims.

Employees who voice concerns about the potentially discriminatory layoff plan, or any other such practices at Meta, can establish retaliation claims by showing they opposed the perceived discriminatory conduct, even informally, that they were laid off, and by demonstrating a causal link between the two.[14]

Temporal proximity between opposing such conduct and leadership's decision to lay off a particular employee can evidence the requisite causal link.[15]

## **What can counsel learn from Meta's missteps?**

For attorneys, the Meta controversy highlights the importance of the tone at the top in assessing potential claims. Leadership comments are not just sound bites; they reflect cultural priorities that can shape workplace practices and policies.

These priorities can directly influence how employment decisions are perceived under laws like the Fair Employment and Housing Act, particularly in cases involving layoffs, terminations or other adverse actions.

Employers should also take note of the risks associated with high-profile appointments like Dana White's. While corporate boards often include individuals with diverse expertise, it may signal misaligned priorities to appoint a figure whose public behavior and statements conflict with the values of inclusion and equity.

Beyond the reputational damage, such decisions may embolden internal criticism or litigation if employees or shareholders believe the company's leadership is fostering a culture of exclusion.

For companies navigating complex cultural shifts, the lesson is clear: Decisions about layoffs, DEI programs and leadership appointments must be communicated thoughtfully, with careful consideration of their potential impact on all employees.

Employers should also ensure that their messaging remains neutral, avoids language that could be construed as biased, and clearly communicates the rationale for decisions in a way that aligns with their legal and ethical obligations.

By prioritizing transparency, equity and compliance, companies can protect their reputations while fostering a workplace culture that attracts and retains top talent.

## **Conclusion**

The decisions emerging from Meta underscore the critical role of leadership's tone and priorities in shaping workplace culture and mitigating legal risks.

While other corporations are rolling back DEI initiatives with neutral and carefully crafted statements, Meta's approach — celebrating aggression and masculine energy while embracing divisive leadership appointments — raises serious questions about equity and fairness in one of the world's most influential workplaces.

No matter how powerful tech giants become, they still owe shareholders a duty to manage their corporations within the law.[16] Employment laws remain firmly in effect, and seemingly biased off-the-cuff remarks have no place in corporate America, regardless of their popularity.

Even beyond the legal implications, while a culture that celebrates aggression may resonate with political machismo, it sounds miserable for the employees, and lawyers,[17] who actually have to show up.

Meta may claim its layoff plans are aimed at the lowest-performing employees, but its newfound tone at the top risks alienating the highest-performing and most innovative talent — the very people who drive the company's success.

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[1] Bloomberg reports that Meta will lay off 5% of staff, available at <https://www.msn.com/en-us/money/other/bloomberg-reports-that-meta-will-lay-off-5-of-staff/ar-AA1xmf5g?ocid=BingNewsSerp>.

[2] See, e.g., Rebecca Shaw, I knew one day I'd have to watch powerful men burn the world down – I just didn't expect them to be such losers, available at <https://www.theguardian.com/commentisfree/2025/jan/16/i-knew-one-day-id-have-to-watch-powerful-men-burn-the-world-down-i-just-didnt-expect-them-to-be-such-losers>; Elon Musk shares one-word reaction to Mark Zuckerberg's Joe Rogan podcast revelation about MMA opening his eyes to the dark side of corporate culture, Sportskeeda, available at <https://www.sportskeeda.com/mma/news-elon-musk-shares-one-word-reaction-mark-zuckerberg-s-joe-rogan-podcast-revelation-mma-opening-eyes-dark-side-corporate-culture>.

[3] Joe Rogan Experience #2255 - Mark Zuckerberg, available at <https://www.youtube.com/watch?v=7k1ehaE0bdU>.

[4] *Students for Fair Admissions, Inc. v. President & Fellows of Harvard Coll.*, 600 U.S. 181 (2023) (holding that Harvard College's and the University of North Carolina's affirmative action admissions processes violate the Equal Protection Clause of the Fourteenth Amendment).

[5] Which US companies are pulling back on diversity initiatives?, The Associated Press, <https://apnews.com/article/dei-diversity-equity-inclusion-meta-facebook-mcdonalds-8ab144803dab400ac901db1530f930e5>.

[6] Dana White loves and defends his homophobic UFC fighters. Now he's helping guide Meta, available at <https://www.msn.com/en-us/sports/other/dana-white-loves-and-defends-his-homophobic-ufc-fighters-now-he-s-helping-guide-meta/ar-AA1xcB26?ocid=BingNewsSerp>.

[7] What It Means to Be a Man, According to UFC's Dana White, available at <https://sports.yahoo.com/means-man-according-ufc-dana-165740235.html> (quoting Dana White as stating "... you can't afford to be a man and talk publicly about, 'Oh, my mental health.' We all have bad days and good days. And I believe that as a man, you suck that sh-t up.").

[8] Old video of Dana White slapping wife recirculates after Meta board announcement, available at <https://www.dailydot.com/debug/dana-white-slap-video-meta/>.

[9] Facebook Deletes Internal Employee Criticism of New Board Member Dana White, available at <https://www.404media.co/facebook-deletes-internal-employee-criticism-of-new-board-member-dana-white/>.

[10] *Martin v. Bd. of Trustees of California State Univ.*, 97 Cal. App. 5th 149, 315 Cal. Rptr. 3d 117 (2023), review denied (Feb. 14, 2024).

[11] *Zamorav v. Sec. Indus. Specialists Inc.*, 71 Cal. App. 5th 1, 34 (2021) ("The plaintiff is required to produce 'very little' direct evidence of the employer's discriminatory intent to move past summary judgment."); see also *Harris v. City of Santa Monica*, 56 Cal. 4th 203, 232, 294 P.3d 49, 66 (2013) (holding that while "liability will not be imposed based on evidence of mere thoughts or passing statements unrelated to the disputed employment decision ... proof that discrimination was a substantial factor in an employment decision triggers the deterrent purpose of the FEHA and thus exposes the employer to liability, even if other factors would have led the employer to make the same decision at the time).

[12] *Mahler v. Jud. Council of California*, 67 Cal. App. 5th 82, 115 (2021), citing *Jianqing Wu v. Special Counsel Inc.*, 54 F.Supp.3d 48, 55 (D.D.C. 2014) ("... speculative correlation between age and experience" is "insufficient to state a claim for disparate impact"; at a minimum, plaintiff was required to proffer "some form of statistical or anecdotal evidence showing that older candidates were being excluded systematically").

[13] See, e.g., *Guz v. Bechtel Nat. Inc.*, 24 Cal. 4th 317, 367 (2000); *Alch v. Superior Ct.*, 165 Cal. App. 4th 1412, 1431, 82 Cal. Rptr. 3d 470, 486 (2008).

[14] *Cornell v. Berkeley Tennis Club*, 18 Cal. App. 5th 908, 942 (2017).

[15] *Light v. Department of Parks & Recreation*, 14 Cal.App.5th 75 (2017).

[16] *Meta Platforms Inc.*, formerly known as *Facebook Inc.*, registered in the State of Delaware. Under Delaware law, directors may be said to owe a duty to shareholders as a class to manage their corporation in a legally compliant way. See, e.g., *Firefighters' Pension Sys. of City of Kansas City v. Found. Bldg. Materials Inc.*, 318 A.3d 1105, 1138 (Del. Ch. 2024), citing *TW Servs., Inc. v. SWT Acquisition Corp.*, No. CIV.A. 10298, 1989 WL 20290, at \*7 (Del. Ch. Mar. 2, 1989) (describing as "non-controversial" the proposition that "broadly, directors may be said to owe a duty to shareholders as a class to manage the corporation within the law, with due care and in a way

intended to maximize the long run interests of shareholders").

[17] A lawyer says he dropped Meta as a client after what he called a 'descent into toxic masculinity' by Zuckerberg's company, Business Insider, available at <https://www.businessinsider.com/lawyer-meta-dropped-client-mark-zuckerberg-changes-mark-lemley-2025-1> ("Mark Lemley, a Stanford law professor and lawyer who represented Meta in a 2023 AI copyright case, said he has dropped the company as a client because of what he described as CEO Mark Zuckerberg's 'descent into toxic masculinity and Neo-Nazi madness.'").