EMPLOYMENT

RESOURCES & SOLUTIONS

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Mandatory Post-Accident Drug Screening Prohibited By New OSHA Rules

Your employee trips over a small stack of lumber on the building site and reports an injury. Another employee is injured when the finish air nailer she was using misfired. Do you request a drug screen when you send them to the medical provider? What do you do with the results? Many employers in the construction industry have in place policies and procedures that mandate drug and alcohol testing in the wake of a workplace accident, regardless of whether there is any suspicion that the employee involved was impaired. However, effective August 10, 2016, OSHA's final rules on electronic reporting of workplace injuries require employers to implement "a reasonable procedure" for employees to report workplace injuries and that procedure cannot deter or discourage employees from reporting a workplace injury. Though the text of the final rule (29 CFR § 1904.35(b)(1)(i)) does not specifically address mandatory post-accident drug and alcohol testing, OSHA's recently-issued commentary specifies that the agency views mandatory post-accident testing as deterring the reporting of workplace safety incidents and employers who continue to operate under such policies will face penalties and enforcement scrutiny.

So what is "a reasonable procedure" for drug and alcohol testing and how can employers test for impairment following an accident? The previous version of § 1904.35(b)(1)(i) already required employers to set up a way for employees to report work-related injuries and illnesses promptly. The final rule adds new text to clarify that reporting procedures must be reasonable, and that a procedure that would deter or discourage reporting is not reasonable. OSHA's commentary with regard to drug testing notes that, "Although drug testing of employees may be a reasonable workplace policy in some situations, it is often perceived as an invasion of privacy, so if an injury or illness is very unlikely to have been caused by employee drug use, or if the method of drug testing does not identify impairment but only use at some time in the recent past, requiring the employee to be drug tested may inappropriately deter reporting." To eliminate that deterrent effect, OSHA maintains that drug testing policies should *limit post-incident testing to situations in which employee drug use is likely to have contributed to the incident, and for which the drug test can accurately identify impairment caused by drug use*. Employers need not specifically suspect drug or alcohol use or impairment before testing, but there should be a reasonable possibility that use by the reporting employee was a contributing factor to the reported injury or illness in order for an employer to require drug testing.

OSHA's commentary provides examples of what it considers to be unreasonable testing: where an employee reports a bee sting, a repetitive strain injury, or an injury caused by a lack of machine guarding or a machine or tool malfunction. Employers should heed these guidelines in revision of their workplace accident and illness policies and be prepared to substantiate the basis for testing when a workplace incident results in drug testing.

For those employers who are required to test under the requirements of state or federal laws, such as U.S. Department of Transportation regulations or state workers' compensation laws, continued testing is allowed under the new OSHA rules because conducting testing in those circumstances is not retaliatory.

Employers who do not comply with these new rules face serious penalties for each violation, as OSHA implements increases that will bring those penalties to over $12,000 per violation and over $120,000 for willful violations. To avoid such consequences, employers should consult experienced counsel for advice on implementation of drug screening policies.

Wendy Sugg

Wendy Sugg practices out of the Orange County office for Troutman Sanders where her primary areas of focus involve litigation and trial in state and federal courts. She represents clients in a wide range of labor and employment concerns as well as business litigation matters, including complex class actions, breach of contract disputes, and trade secrets protection. Wendy also provides advice and counsel to California employers on a wide range of issues from policies and wages to employee hiring and termination, discrimination, and reasonable accommodations. Contact Wendy at 949.622.2719 or wendy.sugg@troutmansanders.com.

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Taking a Practical Approach to the New Overtime Rule

Unless they've been hiding under the covers after the obligation to provide paid sick leave or news that minimum wage will increase to $15 by 2022, most California business owners are aware that on May 18, 2016, the U.S. Department of Labor issued its long-anticipated final rule on overtime. Virtually every employer is affected, including California employers who have long been subject to this state's higher (until now!) salary basis test.

Beginning December 1, 2016, the Fair Labor Standards Act will dictate that an exempt employee must earn at least $47,476 a year ($913 per week). According to the White House, this change is expected to impact 4.2 million employees nationwide and will increase worker wages by an average $1.2 billion annually. The Department of Labor anticipates over 392,000 California workers will be affected, more than any state in the union. This increase more than doubles the current federal threshold, which has not seen an increase in over 10 years, and exceeds California's current annual threshold set at $41,600. Under the new rule, employers may count non-discretionary bonuses, incentive pay, and commissions to meet up to 10 percent of the threshold minimum, as long as this compensation is paid at least on a quarterly basis.

The Department of Labor has also imposed a mechanism to increase the threshold every three years, tying it to the earnings of the 40th percentile of full-time salaried workers located in the lowest income region of the country. The White House projects that the minimum earnings for exempt status will rise to over $51,000 per year, with the first update set to occur on January 1, 2020. The exact amount is required to be published at least 150 days in advance.

The salary basis test is just one element that must be met in order for an employee to be exempt from overtime laws. Under the duties test, the nature of the work performed by the employee is vital as well. Although the Department of Labor indicated that it might make changes to the duties test, these anticipated revisions have been abandoned for now.

Employers have a few months to prepare and should take advantage of this time to analyze how they will be affected by, and respond to the increase. The obvious "fix" is to raise employee salaries. But if the work does not justify a salary increase, or an increase is unfeasible, consider some practical approaches before the new rule takes effect:

- Take this time to analyze the job duties of all exempt positions, especially those that fall below the new threshold. Employers may find that in addition to failing the new salary basis test, the position fails the duties test as well. If that's the case, the new rule provides the perfect opportunity to explain to the employee that the new rule requires a change in classification. Tying the reclassification to a change in law may reduce employee concerns and decrease the chance of costly litigation.

- Consider tighter tracking methods for hours worked by non-exempt employees. A formerly exempt employee might think nothing of checking voicemails and responding to emails after-hours. But non-exempt employees must be paid for this time and the new rule will require a change of thinking on the part of employee and employer alike. Prohibit after-hours work or provide some mechanism that requires accurate reporting of after-hours work to capture all time in the payment of wages.

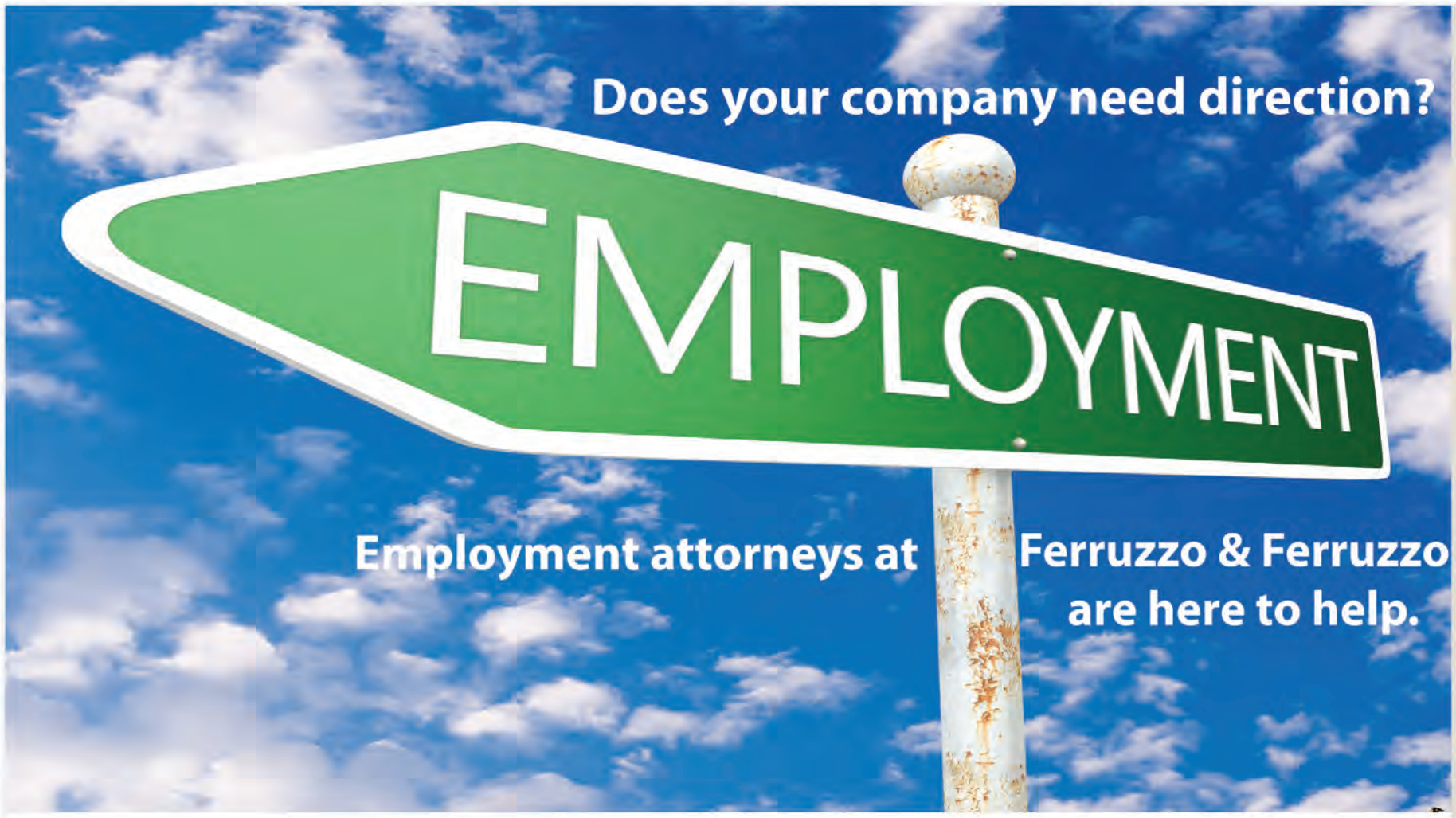
- Determine whether those employees who are affected by the new rule will be treated as hourly non-exempt or salaried non-exempt. In either case, the employee is entitled to overtime. Employees may view the impact of the change as less severe with the latter.

As the December 1 implementation date draws near, there is plenty for employers to consider with regard to the new overtime rule. Please reach out to the employment attorneys at Ferruzzo & Ferruzzo, LLP for additional guidance and any analysis required of exempt/non-exempt status.

Colleen M. McCarthy, Esq. is a Partner and chairs the Firm's Employment Practices Group. She has dedicated her practice to representing and protecting employers, with a particular emphasis on risk mitigation through preventative counseling and sound practical advice.

For over 15 years, Ms. McCarthy has counseled employers about the complicated employment laws that impact their businesses to ensure compliance, and to reduce the chance of costly litigation.

Ms. McCarthy may be reached by phone at (949) 608-6900 or email. cmccarthy@ferruzzo.com



Risk Assessment / Employer Counseling Our team of employment attorneys is dedicated to representing and protecting businesses through preventative counseling and sound practical advice. Our attorneys have extensive experience drafting and negotiating agreements and policies required by employers, including severance agreements, personnel policies, employee handbooks, and employment and commission agreements. We work with our clients side-by-side to understand their needs and help them navigate the complicated employment laws that impact their business to ensure that they are in compliance, and to reduce the chance of costly litigation.

Litigation / Employer Defense We have successfully defended employers in litigation in state and federal court, as well as arbitration. Our attorneys represent employers in mediation and before the U.S. and California Departments of Labor, Division of Labor Standards Enforcement, Division of Occupational Safety and Health, and the Equal Employment Opportunity Commission. Our experience includes the defense of claims of discrimination, wrongful termination, class action wage and hour violations, PAGA claims, harassment, unfair business practices, and violations of Title VII, the FEHA, FMLA, CFRA, ADA and the ADEA.

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Choice is Important – Employees Want, Need, and Expect it

When it comes to health insurance, things have changed. Today, employees want, need, and expect to be able to play a bigger role in their health care. One way employers are adapting is by embracing the move to private health insurance exchanges. Growth hit eight million in the first half of 2016, according to global professional services company Accenture. That marked an increase of more than one-third (35 percent) from 2015, and a 100 percent jump from 2013.

Many things driving the move

Defined Contribution, which gives employers greater control over their costs, is one reason why businesses are making the move. With the California*Choice* private exchange, you decide what amount you want to contribute to your employees' health coverage. You can choose a fixed dollar amount or you can contribute an amount equal to specific percentage of your employees' cost of insurance. The choice is yours. (To qualify for a tax deduction, an employer must contribute at least 50 percent toward the employee's total premium.)

Each of your workers then applies your generous contribution to whichever California*Choice* HMO, PPO, or HSA health insurance plan they prefer. (California*Choice* offers coverage from seven of the state's leading health plans: Aetna, Anthem Blue Cross, Health Net, Kaiser Permanente, Sharp Health Plan, Sutter Health Plus, UnitedHealthcare, and Western Health Advantage.) If one of your employees selects coverage that costs more than your contribution, he or she simply pays the difference through convenient payroll deduction. Defined contribution gives you complete control over what you spend on benefits.

Another reason to consider California*Choice* is today's changing workforce. For the first time in modern history, it spans four generations. In a new era of multigenerational workers, a "one size fits all" approach to health insurance is a throwback – and not in a good way. The generational gap is as varied as it is immense. There are the young-adult Millennials, middle-aged Gen Xers, Baby Boomers nearing retirement age, and Silent Generation workers in their 70s and beyond. Each group has vastly different needs and a single health plan solution doesn't cut it. Choice is essential.

Juggling vastly different health insurance needs can be quite difficult, especially for the more than 28 million small businesses employing nearly half of all U.S. workers. Affordable Care Act (ACA) legislation adds further complexity as companies large and small assess their group health plan options, or in some cases consider whether to offer employee health benefits at all.

Because the ACA requires businesses to include benefits that may not have been part of their employee benefits program previously and it further mandates new reporting to the IRS, employers are increasingly exploring the administrative advantages of a private exchange, too.

The ACA treats large and small employers very differently in important ways. For instance, businesses with 51 or more full-time employees are subject to the Employer Mandate, which requires them to provide access to minimum essential coverage or pay a penalty. Small employers are not penalized for not offering health insurance, though ACA provisions such as Guaranteed Issue apply – where no one can be denied coverage or charged a higher premium due to his or her health status or pre-existing conditions. Full-time eligibility is calculated by total hours for a company, so small groups employing large numbers of part-time workers may find themselves re-categorized as a large group and subject to the ACA mandate.

Operating in an (ex)changing world

Without question, passage of the ACA six years ago shook the health care industry like an earthquake, and employers found themselves at the epicenter. The aftershocks have been profound and sweeping. In a few short years, employers faced a myriad of new challenges and requirements: new reporting (including W-2 changes for employees), preventive health benefits, a Medicare payroll tax increase, Guaranteed Issue, new "pay or play" rules, penalties for unaffordable or no coverage, and others.

To assist employers in complying with ACA requirements, many are turning to their health insurance broker – or looking for and using a broker for the first time. These pros are on the front lines researching insurance carriers and plans, obtaining prices for coverage, explaining benefits to employees, problem solving for owners or management, and, most importantly, servicing businesses throughout the year by providing ongoing support.

Many experts agree that health insurance questions remain too complex for most small businesses (not to mention their workers and their families) to navigate without support. The health insurance industry's trend toward consumerism brings with it a healthy dose of irony. There is more access and a wider spectrum when it comes to carrier choice and coverage options. More Americans have access to health insurance than ever before. But with this shift come increasing layers of complexity that require deeper levels of sophistication and know-how that only a well-practiced professional like a broker can offer.

Similar to larger organizations, small businesses (which often started out as "mom and pop companies") rely on health benefits to help them attract and retain the best workers. Charting a course to the right plan offerings amidst an array of exchanges and online services poses a major challenge. Restauranteurs, hair stylists, machinists, independent grocers, dry cleaners, and auto repair shops are skilled in their respective industries, but not in health and employee benefits. They face the daunting task of finding the right coverage options at the right price that can effectively meet a wide range of needs for a diverse group of workers.

The California*Choice* private exchange platform provides an ideal bridge across generational divides. For example, a 22-year-old single female starting her first job will likely want a different plan than a 62-year-old manager with a spouse, two children, and an eye on retirement. At the heart of the California*Choice* solution is access to greater choice for employees. Smart business owners are teaming with their brokers to enable employees to select the coverage that best fits their lifestyle and budget.

The era of the four-generation workforce has dawned. Owners and small businesses are wise to embrace private exchanges like California*Choice* and the technology employees want and expect. That includes online enrollment and plan selection and decision-support tools to help you cost-effectively address the needs of your workers across all stages of their lives.

Private exchanges offer employers the ability to expand employees' options, control business costs (through defined contribution), and streamline benefits administration – with online enrollment for multiple health plans, a single bill for all coverage, and one website and toll-free number for employee support. For some, private exchanges represent the future of health care. However, the California*Choice* private exchange has been serving the needs of businesses for more than 20 years. It gives employees more options, including the ability to choose from multiple insurance carriers and health plans. California*Choice* focuses on groups of one to 100 employees and has seen a significant increase in membership during the five years since the ACA became law. California*Choice* now serves more than 17,000 employers and 310,000 employees and dependents across California.

For more information about the California*Choice* private exchange and employee-choice health benefit program, contact your health insurance broker or visit www.MyCalChoice.com.

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Best Practices for 401k Plan Sponsors

Retirement plan sponsors have a lot of headaches and liability because of their role as plan fiduciaries. Below you will find some proactive steps that plan sponsors can take to decrease their potential liability:

Maria Arriola

▶ The Threat of the DOL and IRS Auditing Your 401k Plan Must Be Taken Seriously

The DOL audits small- to medium-sized employee retirement plans frequently. These plans have the potential to get sued for breaches of fiduciary duty. A plan sponsor should perform internal compliance reviews as they are far less costly than penalties on plan audits.

▶ Review Plan Terms

Failure to operate the plan according to its terms is breach of fiduciary duty and risks the plan to penalties from the IRS with plan disqualification as the ultimate penalty. Sponsors should know how the plan defines compensation. Does it include bonuses? Is it taxable wages or total wages? The amount to be withheld from the participant's salary depends on which amount constitutes compensation.

▶ Review Plan Type and Contributions

A plan sponsor should periodically review whether the retirement plan still fits their needs and whether the plan's method of allocation should be changed based on their economic conditions. Can the sponsoring company still afford their defined benefit plan? Is the small plan restricting how much money they can put away for their top employees? Can the sponsor afford safe harbor contributions to avoid discrimination testing?

▶ Review Plan Administration

The administration of a retirement plan is technical and requires precise recordkeeping and discrimination testing. These requirements are needed to preserve qualification as a tax-deferred entity. Errors in the administration of the plan can threaten a plan's qualification and expose the plan sponsor to potential liability from the IRS, DOL and plan participants. A periodic review of the TPA's work by an independent party may discover issues that typically are only discovered years later.

▶ Review the Fiduciary Process

Plan sponsors have the misconception that the role of a financial advisor is to pick out investment options, no more and no less. The role of a financial advisor is to help a plan sponsor manage the fiduciary process. That means the development of an investment policy statement (IPS), implementation, review of plan investment options based on the IPS, as well as giving education to plan participants.

▶ Fee disclosures

A big change that took place in 2012 was the implementation of new fee disclosure regulations. As part of the new requirement, each covered service provider must disclose detailed information to plan sponsors about fees charged and the services provided by those fees.

It has become increasingly important for plan sponsors to better understand their fiduciary and compliance obligations.

For more information, please contact Maria Arriola, ELLS CPAs Shareholder, at 714.569.1000 or marriola@ellscpas.com.

The Experienced Workforce

According to the Bureau of Labor Statistics, "As the U.S. Population ages, the labor force will slowly grow during the next decade. However, job seekers age 50 and over are projected to grow five times faster than the overall labor market."

How will this impact the talent pool today and in the future?

The 50+ workforce pool is underutilized and unemployment in this demographic is predicted to steadily rise. Many members of this 50+ group are struggling to regain employment after losing jobs during the recession. Those coming back after an early retirement or entering for the first time are often even more challenged.

The multi-generational demographics in many companies can make 50+ workers feel threatened that they may soon be replaced by up and coming Millennials. Job seekers give up hope of getting hired "because companies want younger people" and this source of reliable, success proven, talent is going untapped.

How can we as employers embrace the potential of these demographics?

Companies can start by creating and implementing anti-ageism and 50+ hiring initiatives. For instance, many companies nowadays are utilizing resources such as *AARP.org*, an organization that provides services to over 50+. These services include articles on writing a great resume, prepping for an interview, and staying current with social media and technology. Today, more than 300 companies have partnerships with AARP. AARP has also partnered with Simply Hired, an online job board, as a way for companies to post jobs to target these demographics.

To learn more about these programs, please visit *employerpledge@aarp.org*, *http://aarp.simply-partner.com/search*, or *primecb.com*.

Members of the 50+ workforce strive to make significant contributions with an invaluable lifetime of work experience. Giving the 50+ workforce equal consideration as valued employees and job applicants can be a win-win for all!

Marquee Staffing is dedicated to providing quality services that exceed the expectations of our clients through our total commitment to excellence. We also strive to become known as the one of the top local professional recruiting experts in Southern California.

Emily Salanio

Emily Salanio has more than 20 years of experience in the staffing industry including recruitment, sales, and operations after serving as an officer in the U.S. Coast Guard for eight years. Her role as Executive VP is to provide consultative support to all branches in business development, marketing programs, system administration, training and computer equipment/applications. She also played an active role in the development of Marquee's Technical Recruiting division. Emily received her bachelor's degree in Business Management from the U.S. Coast Guard Academy and is a proud member of AARP. Contact her at esalanio@marqueestaffing.com or 949.222.6430.

USCIS Extends Work-Training Period for STEM Graduates

by Mitchell Wexler, Partner and Blake Miller, Associate, Fragomen, Del Rey, Bernsen & Loewy LLP

Orange County has emerged as a hot-bed for engineering, technology, bio-pharma, and more. Companies focused on Science, Technology, Engineering, Math (STEM) have been challenged to find and retain the necessary talent to continue to evolve. Recent changes in US immigration regulations now allow US employers enrolled in E-Verify to extend the employment period of international students with STEM degrees under Optional Practical Training for up to 36 months.

Mitchell Wexler

Upon graduating, international students can obtain Optional Practical Training (OPT) to work/train in a field related to their studies for a twelve month period. On May 10, 2016, new regulations came into effect allowing STEM graduates to extend the OPT period for an additional 24 months, for a total of 36 months. While the additional work authorization is a huge benefit for employers and STEM graduates, employers need to be aware of key provisions attached to the new regulations.

E-Verify

The Employer's worksite (office specific) must be enrolled in E-Verify. E-Verify is the internet-based system that allows businesses to determine the U.S. employment-authorization of employees. Some states require all employers to enroll their worksites in E-Verify – California is not (yet) one of them.

Training Plan and Evaluations

The employer and international student employee must complete a Training Plan. The plan requires employers to discuss the student's role at the company, goals and objectives of the training, employer oversight, and assessment methods for the student's training. Employers are also required to submit an annual evaluation of the students progress during the 24 month period.

Attestations and Site Visits

In signing the Training Plan, employers attest to several statements regarding the conditions of the training including: the training is related to the student's STEM degree; the student will receive on-site supervision; the student will not replace US workers; and the duties, hours, and compensation are commensurate with similarly situated US workers. Employers should carefully review and evaluate the attestations before employing a STEM OPT worker and signing a Training Plan, as site visits will be conducted by US Department of Homeland Security. While the extent and scope of the site-visits are not yet apparent, employers should be prepared to discuss the student's training and evidence compliance with the STEM regulations.

We encourage employers to work closely with immigration counsel to develop an effective application process to take advantage of this critically important program.

For more information, contact Mitch at 949.660.3531 or mwexler@fragomen.com.

Rise of the Candidate

Have you struggled to find the best possible candidates? There's a reason why: The control of the employment negotiation has shifted into the hands of the candidate.

After a few years of economic recovery, we are firmly in a new power stage. According to Dr. John Sullivan and ERE.net, shifts like this happen when:

▶ **Unemployment drops:** Unemployment is the lowest since 2008 and is expected to continue dropping across all major sectors into 2021, according to IBIS World Business Environment Profiles.
▶ **Turnover dramatically increases:** Turnover rates went up 46% last year.
▶ **Firms fail to raise salaries for existing employees:** Employees seek jobs elsewhere to improve their income.
▶ **More new jobs open and remain unfilled longer:** The job openings rate has increased 22% since July 2013.

Candidates realize they now have options, so they raise their expectations, making the competition for talent more challenging.

According to SHRM, as candidates move to more desirable positions, talent shortages have become the top challenge for most U.S. companies. In a recent survey, 43% of companies said that not having the right talent has hurt their ability to serve customer needs. Talent shortages have reduced these firms' competitiveness and productivity, as well as increased turnover, and raised compensation costs.

Top talent no longer tolerates a weak employer brand, slow application process, death-by-interview, or a distasteful candidate experience. Candidates seek to obtain higher salaries, benefit improvements, advancement opportunities, and work-life balance—all through a clear and convenient hiring process.

What's needed to attract talent? Here are eight steps to help transition your talent strategy to compete in a candidate-driven market:

1. Realize you are now "selling" candidates on your job and that you have to compete.
2. Shift from active to passive recruiting tools to develop relationships with candidates currently employed elsewhere.
3. Upgrade job postings to be compelling, accurate, and easy-to-read to grab a candidate's attention.
4. Speed up the hiring process to "win" candidates before they accept a competing offer.
5. Put yourself in the shoes of a candidate and apply to your company under a false name. If you don't feel respected and accommodated, your candidates certainly won't, either.
6. Include more introductions with potential team members and facility tours in the interview process to deepen a candidate's understanding of your unique value.
7. Offer flexible working arrangements to appeal to a candidate's desire for work-life balance.
8. Partner with a staffing firm that specializes in finding the top talent you need, allowing you to focus on your core business operations while still securing the resources you need to keep your company growing.

Lisa Pierson
Lisa Pierson is the President of Kimco Staffing Services. Headquartered in Southern California since 1986, Kimco has the market expertise to help companies find top talent and the business acumen to help our clients navigate California's unique employment environment. Our approach to staffing focuses on individualized service, customized solutions, and a commitment to deliver "Hire Results"! You can reach Lisa at lpierson@kimco.com or 949.331.1102.

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An Employer's Knowledge Can Be a Dangerous Thing

by James P. Carter, Principal, Jackson Lewis P.C.

Sir Francis Bacon famously wrote, "Knowledge is power." If Bacon had been a California employment lawyer and had studied the recent Court of Appeal decision in *Wallace v. County of Stanislaus*, (2016) 245 Cal.App.4th 109, he likely would have written, "Knowledge is power and liability."

The County of Stanislaus employed Dennis Wallace as a deputy sheriff. Wallace injured his knee and filed a workers' compensation claim. After surgery, Wallace took various medical leaves and worked various light duty positions. The County learned of Wallace's medical restrictions found by a qualified medical examiner and temporarily reassigned him as a courtroom bailiff until the agreed medical examiner could evaluate Wallace. In the interim, Wallace's supervisor rated him "above average" as a bailiff.

The AME report, issued six months later, provided even greater restrictions, which prompted the captain and undersheriff to place Wallace on another unpaid leave of absence because, in their view (not confirmed with Wallace's supervisor), the AME restrictions conflicted with a bailiff's job duties, e.g., subduing an unruly party. Wallace filed suit alleging disability discrimination, among other claims.

The trial court instructed the jury that Wallace had to "prove that the actions taken by the employer were done with the intent to discriminate." The County prevailed.

The Court of Appeal reversed based on the California Supreme Court decision in *Harris v. Santa Monica,* (2013) 56 Cal.4th 203, that issued just following the *Wallace* jury trial. In *Harris*, the Court held that an employee can prove discriminatory intent by showing an actual or perceived disability was a "substantial motivating factor/reason" for the employer's adverse employment action. Intent to discriminate is not required. The captain and undersheriff knew of Wallace's restrictions and viewed them as disabilities requiring unpaid leave from his bailiff position. Thus, County liability for disability discrimination follows where there was no effort to reasonably accommodate Wallace.


James P. Carter

While the County could not have known Wallace would later be cleared to patrol again (miraculous recovery?), it knew enough to check with his supervisor and consider accommodations before forcing leave. Knowledgeable employers, beware.

James P. Carter is a Principal in the Orange County office of Jackson Lewis P.C., an AmLaw 100 law firm dedicated to representing management exclusively in workplace law. Contact Mr. Carter at 949.885.1360 or James.Carter@jacksonlewis.com.

Six-Time Rewind: Voicemail That Enhances Professionalism

by Kathi Guiney, SPHR, GPHR, SCP, President, YES!HRSolution

Six times rewinding this voicemail, and you are no closer to deciphering the woman's name. Ella, Bella or Stella? You shouldn't have to call back with a tentative, "Um, hi," or the ever-popular, "Someone left me a message" all because she can't enunciate! And why doesn't she do something about the marbles in her mouth anyway?!

YES!
YOUR HUMAN RESOURCES SOLUTION

That's how a 10-second voicemail turns into a 5-minute battle that ruins someone's professional image. And it could have been avoided with these common voicemail courtesies that send the right message.

▶ **Keep it brief.** Effective voicemail provides a quick answer or invites further conversation. It is not the place to detail your three-pronged, budget-reduction strategy. Use organized thoughts that respect the recipient's time.

▶ **Talk slowly and steadily.** A speedy or wavering voice will not speak well to your professionalism. So think about what you'll say before you call, and deliberately slow down, especially if you're nervous. Repeat your name and phone number at the beginning and end of the message.

▶ **Speak loudly enough.** The key to volume is balance: Too loud, and you sound abrasive or demanding. Too soft, and you sound timid or unconfident. And be careful where you're calling from; freeway noise and the sound of the barista making your latte are a nonstarter!

▶ **Listen to your message before sending.** Many messaging systems let you replay your voicemail before you send it. Take advantage! Are you babbling? Speeding? Shouting? Are your name and phone number clear? If your message doesn't come across as intended, erase it and try again.

Next time you leave a perfectly polished voicemail, think about the public service you're doing: saving your listeners from frustration and despair, and saving their rewind buttons from six times the angry mashing. Your listeners and their phones appreciate your professionalism.

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