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JAMES P. CARTER
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Mr. Carter has more than 25 years' experience counseling and defending companies in all aspects of employment law and regularly represents employers in matters including discrimination, harassment, wrongful termination, retaliation, wage and hour claims, class action cases, breach of contract claims, trade secret and non-compete, disability accommodation, leaves of absence and workers' compensation issues. Mr. Carter, who has been recognized in The Best Lawyers in America® since 2009 and was recently named the publication's 2015 Orange County Employment Law – Management "Lawyer of the Year," represents clients in a myriad of industries and is a frequent speaker on employment and workers' compensation issues.

Mr. Carter can be reached at
James.Carter@jacksonlewis.com or (949) 885-1360

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A Smart Business Solution for ehs International Inc. Is Building Awareness

When it comes to effective business solutions, Marjorie Del Toro has a proven track record. As the CEO and founder of the environmental health and safety firm, ehs International Inc., Del Toro believes a smart first step is to open your doors. If clients are going to understand what your business has to offer, start by building awareness.



A perfect example of building awareness is the ehsInc event to mark the grand opening of a new Orange County Learning Center. By demonstrating a proven track record of safety consulting to the Irvine community, ehsInc expands their reach. The customized consulting and training services of ehsInc can help ensure your company's workforce goes home safely to their families.

In learning centers across the country like the new one in Irvine, ehsInc trains employees to do their jobs safely. If a specialty contractor needs to ensure OSHA guidelines are met, ehsInc supports the bidding process. From a consulting perspective, by showing companies how to properly manage their compliance records and safety training records, ehsInc saves businesses money while protecting lives. That's a great combination for ongoing success!

For more information, contact Chief Branding Officer Eric Garcia at info@ehsinc.org or 949.540.6800.

National Labor Relations Act

by Jared Bryan, Principal, Jackson Lewis

Requiring class and collective action waivers as a condition of hire or continued employment violates the National Labor Relations Act ("NLRA"), the Ninth Circuit Court of Appeals ruled on August 22, 2016.

In April 2011, the U.S. Supreme Court ruled that class claims can be waived in a valid arbitration agreement under the Federal Arbitration Act ("FAA"). Many employers have since entered into such agreements with their employees. The National Labor Relations Board, however, takes the position that prohibitions against class or collective proceedings violate an employee's rights to engage in protected concerted activity for mutual aid and protection under Sections 7 and 8 of the NLRA.

Essentially following the Seventh Circuit's reasoning in a decision earlier this year, and deferring to the NLRB's interpretation of the NLRA, the Ninth Circuit has now held that employees have a substantive right to pursue work-related legal claims and to do so together. It also concluded that employers cannot defeat such rights by requiring employees, as a condition of employment, to agree to pursue claims on an individual basis. Other courts, however, including the Second, Fifth and Eighth Circuits, have concluded that class and collective action waivers do not violate the NLRA.

The future of class, collective, and representative action waivers is uncertain. Within the Ninth Circuit (which has jurisdiction over Alaska, Arizona, California, Hawaii, Idaho, Montana, Nevada, Oregon and Washington), it remains to be seen whether the matter will be heard *en banc* by the full Ninth Circuit Court of Appeals. If the decision stands, the split on this issue is significant, and the matter is ripe for U.S. Supreme Court review. Many of the Supreme Court's decisions regarding class action waivers have been based on five-to-four rulings, where the late Justice Antonin Scalia represented one of the five votes favoring class waivers. Accordingly, the Supreme Court's composition likely will affect the fate of class action waivers and the outcome of the dispute among the circuits.

For more information on class and collective action waivers, contact Jared at Jared.Bryan@jacksonlewis.com or 949.885.1360.

Jared Bryan

Jared Bryan is a Principal in the Orange County office of Jackson Lewis, an AmLaw 100 firm dedicated to representing management exclusively in workplace law.




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Millennial small business owners in it for the long haul



Twice as many millennial business owners said they are looking not only for a comfortable future but to grow their businesses as big as possible.



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The Next Generation of Entrepreneurs: How Millennials are Changing the Small Business Landscape

Millennials are starting their own businesses at a rate unseen by any other generation; they are the fastest-growing segment of entrepreneurs today. Born between 1981-1997, millennials have surpassed Baby Boomers as the largest living generation on earth, and one area in which they have made a big impact is the workforce. From pursuing a more flexible work environment to seeking a challenge, millennial entrepreneurs all have their own reasons and motivations for starting a business instead of settling into a traditional career path.

At Wells Fargo, we understand the importance of getting to know this new generation of entrepreneurs so we can help them build their businesses and thrive. Here are four ways millennial entrepreneurs are growing, changing and reshaping the small business landscape.

Forging Their Own Path

Many millennials were graduating high school or college during the financial crisis, and this experience helped form their plans for their future careers. This generation is the most diverse and most entrepreneurial, with millennials launching approximately 160,000 startups per month, according to a study by the Ewing Marion Kauffman Foundation. In fact, according to a recent Wells Fargo study of millennial small business owners, 82 percent of millennial small business owners say they started their business because they wanted to be their own boss and have control over the future, and today, 71 percent are working on their businesses full time. The study also found that 41 percent of millennial small business owners are looking not only for a comfortable future, but to grow their business as big as possible, compared to 21 percent of older small business owners. The vast majority of millennial business owners surveyed said they are planning to grow their businesses over many years with the goal of potentially even passing it down to their children.

Launching More Businesses

Millennials today are starting more businesses in a wide variety of industries. The Wells Fargo study found that one in five millennial small business owners (19 percent) say they own more than one business, compared to 17 percent of older small business owners. When asked what business type/industry they work in, the top three reported were professional and business services (22 percent), retail, wholesale or restaurant (20 percent), and consumer services such as house painting or auto repair (16 percent). This is consistent among older small business owners who report professional and business services (38 percent), retail, wholesale or restaurant (14 percent) and consumer services (15 percent) as the top three business types/industry they work in.

Seeking Support

When it comes to seeking support for their business's financial success, millennial small business owners aren't afraid to ask for help. According to the Wells Fargo study, millennial small business owners draw on a number of different sources for inspiration, with most turning to friends and family (82 percent), and other small business owners and competitors (74 percent). In addition, a large percentage of millennial small business owners (76 percent) say they are willing to pay for products and services that help them do a better job of running their businesses, compared to 66 percent of older small business owners.

The Glass Is Half Full

In thinking about the future of their businesses, millennial small business owners tend to have an optimistic outlook. In fact, the Wells Fargo study found that the outlook for the coming year is seen to be brighter among millennial small business owners, with 77 percent saying that they expect improvement in their business in the next year, compared to 51 percent of older small business owners. The positive, ambitious outlook supports their plans to grow and scale their business in line with their goals.

As more millennials enter the small business space and launch their ventures, understanding how they operate and what motivates them will be as important as ever. Working with small business owners is one of the most important things that we do, and we are excited to be part of the changing small business landscape and help more millennials grow and thrive.

Ben Alvarado

Ben Alvarado is executive vice president and president of Wells Fargo's Southern California Community Bank.

He oversees approximately 3,800 financial professionals at 234 banking stores and manages more than \$34.1 billion in deposits and \$11.3 billion in loans.

Alvarado, a 24-year banking veteran, assumed his current role in December of 2014. Prior to being named president for the Southern California Region, he ran the Orange County-Inland Community Bank. He also has served in various positions at the company, including retail bank district manager for the Pasadena and South Bay markets; commercial loan officer; sales development coach; banking store manager; personal banking officer, and bank teller. As one of the top ranking executives in the bank, he also sits on the Management Committee, which provides oversight on operations, practices and to lines of business.

Alvarado earned his bachelor's degree at California State University, Long Beach, and an MBA from Pepperdine University. Alvarado is active in the community and serves on the board of directors for Orange County United Way; the advisory board for Miller Children's & Women's Hospital Long Beach; Memorial Medical Center Foundation; the board of directors for Bundles of Books in Los Alamitos; Game Changer Charity and is the current president of Wells Fargo's Latin Connection team member networking group.

Alvarado resides in Rossmore with his wife and two children.



Finding the best credit option for your business

About one in three business owners use their own funds or personal credit for their business, according to a recent Wells Fargo/Gallup Small Business Index survey. Yet as a business seeks to grow, obtaining business credit is essential and can help finance purchases, build a credit history, supplement cash flow, and preserve savings.

About one in three business owners use their own funds or personal credit for their business.

So how do you choose the best credit option for your business? The type of business credit you need depends on your business goals and how much funding you need. Following are several common credit needs, and options available to address each one:

Need a way to pay for everyday business expenses? When looking for a convenient way to pay for everyday business expenses and a smart alternative to cash, checks, and personal credit cards, business credit cards can be a good option. With a business credit card, you can separate your business from personal expenses and immediately pay for day to day business expenses.

Need to make large seasonal purchases or cover payroll? Nearly every small business will face a time when it needs more cash than it has on hand. A business line of credit can provide fast, easy access to cash (which can bridge gaps in cash flow) and help supplement cash flow for business expansion, taxes, insurance, or other expenses.

Want to expand your business or make a large equipment or vehicle purchase? For a specific business need, business term or equipment loans should be considered. Loans give businesses immediate access to funds and are ideal for business owners who want a flexible way to get a lump sum at a fixed or variable interest rate for a fixed period of time. There are many types of loans, including unsecured loans, secured equipment loans, real estate loans, and vehicle loans, and rates and terms vary.

When evaluating lending options, you should also consider an SBA loan. Through government-guaranteed SBA loans, financial institutions are able to extend financing to a segment of creditworthy small business owners who may not be able to obtain a conventional loan or loan terms that meet their business needs.

Business owners who are looking to buy real estate, acquire a new business, or purchase equipment may find that an SBA loan offers more flexible terms than a conventional loan. SBA products include the SBA Express line of credit, and SBA 7(a) and SBA 504 loans.

As business owners consider their credit options, they should consult with a banker to help determine the best option to meet the specific needs of their business.

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To find out more about how to manage and apply for credit, visit WellsFargoWorks.com.

* Wells Fargo is America's #1 lender (Community Reinvestment Act government data, 2002 - 2014).

* Wells Fargo is America's #1 SBA 7(a) lender by both units and dollars (U.S. Small Business Administration data, federal fiscal year 2015).

All credit decisions subject to credit approval. For SBA loan products, SBA eligibility is also required.



Together we'll go far





Attracting, Developing and Retaining Millennials

With the increased retirement of Baby Boomers and the relative lack of Gen Xers in the workplace, companies today are turning towards the next generation, Millennials, to fill future crucial job gaps. According to Forbes, Millennials will make up one-half of the workforce in the next five years with an impressive 75 percent in the next decade. There has thus, never been such an important time in understanding this digitally inclined generation. Let's look at some key factors in attracting, developing and retaining Millennials.

Attract Them – Strengthen Your Digital Presence

With this new generation Googling everything, employers must ensure that their company webpage and social media platforms are up-to-date, modern and easy to use. According to a study by *Inc.*, 62% of Millennials are more likely to become loyal to a company if they can engage with the brand online. As a result, an outdated website can substantially hurt an organization's brand as this can mean the company is not progressive and behind on technological advances.

In addition, utilizing technology to deliver crucial information such as company culture, perks and development opportunities can be a strong tool in reaching a broad audience. For instance, many organizations are utilizing corporate videos where current employees "walk" prospective candidates through their day-to-day life. This is a fun and engaging way to "sell" your brand!

Develop Them – Focus on Training and Development

According to a 2016 Deloitte survey, two-thirds of millennials expect to leave their current employers by 2020. However, contrary to the stereotype, Millennials don't prefer changing organizations every few years. In fact, 70% of respondents cited a lack of leadership development as the number one cause to their dissatisfaction. Millennials are seeking to learn, grow and become leaders in their organizations. As a result, companies need to double down on training seminars, frequent feedback sessions, increase performance evaluations along with mentorship programs, cross-training opportunities and career-setting goals.

Retain Them – Focus on Company Culture

Creating a culture based on open communication, flexibility and innovation is a good step in keeping Millennials engaged. This new generation values a less formal atmosphere based on open door policies and open communication between supervisors and peers. Also, according to Statista, the main motivator for Millennials when choosing a position is work life balance. In fact, many employees are willing to take a pay cut and less vacation time for a work schedule outside of the 8 to 5 life. It is important to note however, that when Millennials speak of this "balance," let's not mistake this for laziness and working less. They simply seek flexibility and creativity in their work: this is about *where, when and how they work!*

By 2020, Millennials will make up 50% of the Global Workforce. With this emergence, it is crucial for organizations today to revisit traditional human capital approaches through implementing new policies and more sustainable business models in order to address the shifting needs of our labor force.

For more information about Marquee Staffing and our services, please visit www.marqueestaffing.com.

Ann Nguyen Assistant Branch Manager

Ann focuses on placing Medical Device professionals and top-tier Accounting and Finance candidates in prominent companies. With a business degree in HR, Ann believes that the key to maintaining strong client relationships is by understanding their needs and providing hiring managers with quality professionals who truly fit company culture and goals.



ORANGE COUNTY'S TOP BUSINESSES HAVE A SECRET WEAPON.



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Proposed Foreign Entrepreneur Rule

by Mitch Wexler, Partner, and Jenna Robinson, Associate, Fragomen Worldwide

On August 31, 2016, United States Citizenship and Immigration Services (USCIS) published a proposed regulation that would provide a new opportunity for foreign nationals to obtain temporary work authorization in the U.S. The proposed regulation creates a temporary immigration program for foreign investors, researchers and entrepreneurs planning to create start-up businesses with substantial U.S. investor funding or with the potential for innovation or job creation. To qualify under the new regulation, the applicant (1) must have established a start-up business within the last three years; (2) must hold at least a 15% ownership interest in the start-up; and (3) must play an active and central role in the operation of the business. In addition, the start-up must have received a capital investment of at least \$345,000 from qualified U.S. investors or at least \$100,000 in grants or awards from qualifying U.S. federal, state or local government entities. Approved entrepreneurs would be "paroled" into the U.S. for an initial period of two years, with an additional three-year extension available if the entrepreneurs can establish that the entity is still operating, continues to play a central role in the business, and the business has created jobs, received substantial funding, generated significant revenue, or a combination thereof.

According to the Administration's Executive Action plan, the parole program is intended to give qualifying entrepreneurs time to establish businesses and qualify themselves for a permanent resident green card case. While there are similarities with the current E-2 Treaty Investor Nonimmigrant Visa, the proposed parole program requires a much higher threshold in terms of investment and a much smaller interest in the company. Additionally, as a discretionary grant, parole can be revoked by the U.S. government at any time if the operation ceases doing business or fails to generate a significant public benefit. Although limited in scope, this new program may be particularly attractive to foreign nationals who do not qualify for the E-2 visa due to the lack of a treaty agreement, including countries such as Israel, Brazil, China and India. USCIS will be accepting public comments on the proposed rule until October 17, 2016.

For more information about this subject, please contact Mitch Wexler at mwexler@fragomen.com or 949.660.3531.



Mitch Wexler

Mitch Wexler is a Partner of the leading immigration law firm, Fragomen Worldwide and manages the firm's Irvine and Los Angeles offices.



Jenna Robinson

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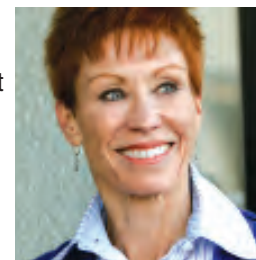
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Talking Politics at Work ... and Then the Fight Broke Out

by Kathi Guiney GPHR, SPHR, SCP, President of YES!HRsolution

This supercharged election year, political bombs are blasting all around us: at home, online and in the office. But talking politics in the office is like calling someone's pet ugly – it goes nowhere good! And when emotions run high, it's easy to land on the battlefield (or start a melee!) even when you don't mean to. So, how can you avoid the artillery?



For starters, leave the political-emblazoned clothing at home. Weekends come every five days; break out that ultra-patriotic candidate tee then. It may get less stink eye at the grocery store than in the office lunch room. Plus, it's unlikely your shirt will get anyone at work to change candidates, so best leave the promotion for elsewhere.



Next, think about what you post on social media. Co-workers or your boss may be connected with you. Heated tirades on the latest election news, and campaign slogans that seem very clever after a cocktail or two may not be forgotten so easily. Is that post worth making a co-worker angry or uncomfortable?

Finally, using the break room as "debate central" is probably not allowed by the company, and may end up alienating the very people you hope to persuade. No one wants to be trapped in a debate when all they wanted was to toast their bagel!

Everyone's opinions are important in this amped-up election year. That's what democracy is about! But it's also important to share those opinions at the right time and place, and in such a heated battle, the office isn't really a safe zone. Just remember, it's always an option to gracefully abstain from political discussions at work. There is a reason many voting booths still have curtains, because in the end, voting is a private moment that no amount of battle will change.

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Partnering for Success and Protection

It seems as though every time we turn around, there is another employment law affecting our workforce. It's no surprise that California is, and continues to be, one of the toughest areas in which to do business. However, with a strong employment partner and an understanding of labor rules and regulations, employers can prosper.

As you identify staffing partners, select one that can help educate you and protect you against legal liability. Some of the top challenges facing Orange County companies today include AB-1897, the Affordable Care Act, and safety programs. Below are some ways your partners can protect you.

Joint Employer Liability Peace of Mind

Have you checked the financial health of your current staffing partner recently? If not, do it soon since California considers you a joint employer and you may be leaving your company exposed to wage and workers' compensation risks under the Joint Employer Liability Act (AB-1897). This law states that employers that use staffing companies are liable for any unpaid wages for the temporary workforce assigned to their company and are liable for the failure of the contractor to secure workers' compensation insurance. To confirm your staffing partner is keeping you safe, request a quarterly audit statement confirming payment of wages and workers' compensation insurance.

ACA Support

The Shared Responsibility component of the Affordable Care Act (ACA) requires companies employing 50 or more employees to offer affordable and ACA-qualified insurance to its eligible employees or pay significant penalties. While this mandate does not affect your ability to secure temporary or contract staff, it's important to know if you're partnering with a staffing firm that is ACA compliant. If your partner is not fully prepared to support and comply with ACA requirements, they may find themselves facing stiff penalties and unable to sustain their business. Conversely,

employment partners who are financially stable and well-versed in ACA requirements can be a good source of information for your ACA compliance questions.

Enhanced Safety Programs

A proactive approach to safety results in decreased accidents and increased cost savings. Employment partners should team up with your senior management and safety manager to create a customized safety program with detailed action plans. Your staffing company should employ field-based safety specialists to provide you with safety and hazard risk analysis. This is accomplished via random and pre-scheduled safety walk-throughs, safety committee meetings, safety incentive programs, equipment certification, accident investigation and root cause analysis, trend analysis, and detailed reports.

Ultimately your employment partner should protect your business, so select a company that is financially stable and has the knowledge and experience to keep you and your business safe.

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 lperson@kimco.com or 949.331.1102.



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