

Orr&Reno

Selected Hot Employment Law and Employment-based Immigration Topics

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Our show today:

Who wants to be a millionair... – uh no,
an HR Guru?

(with apologies to Regis and Meredith)

Don't forget your lifeline – pick a friend



Our first question – 100 Points

GINA is:

- A. The Genetic Information Nondisclosure Administration
- B. My neighbor's cat
- C. The Genetic Information Nondiscrimination Act
- D. My neighbor



C --The Genetic Information Nondiscrimination Act

- Effective 11/21/09
- Employers with 15 or more employees
- Discrimination based on genetic information
- Includes family medical history
- Information security



500 Points

Mini-WARN is:

- A. Evil Dr. Warn's tiny sidekick
- B. The small print on the back of a ski lift ticket
- C. Federal law concerning plant closings
- D. State law concerning plant closings



D -- NH Mini-WARN law in effect

- NH employers with 75 or more employees (federal is 100)
- Plant closings – 50 or more jobs
- Mass layoffs – one third and 25 employees
- 30 day rule
- 60 days notice



1000 Points

Under NH wage law, payroll deductions are permitted:

- A. Whenever the employer chooses
- B. To permit employer to recoup losses caused by employee misconduct
- C. Only for purposes specified by law
- D. For any purpose mutually agreeable between employer and employee



C -- Payroll deductions

- Current law
 - Deductions as specified by statute and regulation
 - Accidental overpayments
 - Employee loans
- SB 336 as proposed in 2010 session
 - Any mutually agreed purpose



5000 Points

The ARRA COBRA subsidy of 2009:

- A. Was repealed by Congress
- B. Expired 12/31/09
- C. Was extended by Congress into 2010
- D. Is something I had never heard about in the first place



C -- ARRA COBRA subsidy

- 65% subsidy – recoverable by employer
- Employees involuntarily terminated through 12/09
- Extended under 2010 Defense Appropriation Act until 2/28/10
- Duration of subsidy now 15 months



10,000 Points

HB 1403 relating to wrongful termination would create for NH employees a claim for:

- A. False imprisonment
- B. Negative employee evaluations
- C. An abusive work environment
- D. Rude comments by manager



C -- HB 1403 (2010 session)

- Cause of action in NH for “abusive work environment”
- Employer acting with malice
- Subjects employee to severe “abusive conduct”
 - Verbal abuse
 - Threatening or humiliating conduct



25,000 Points

H-1B is:

- A. A flu strain which is quite contagious
- B. A type of immigrant visa
- C. The fourth highest mountain in Asia
- D. A type of nonimmigrant work visa



D -- H-1B nonimmigrant visa

- Available for specialty occupations
- Generally six year maximum
- Capped at 65,000 per fiscal years beginning October 1
 - Ran out 12/21/09 last year
- Can petition six months in advance (i.e. April 1, 2010)



50,000 Points

Paid sick leave:

- A. Is required under the federal FMLA
- B. Is better than chicken soup for a sick employee
- C. Is required under current NH law
- D. Would be required under proposed NH law

D -- NH HB 662 Paid Sick Leave



- Would require paid sick leave
- Up to 40 hours per year
- Introduced 2009 session and retained
- Sent to interim study in 2010 session



100,000 Points

The Lily Ledbetter law:

- A. Amended the Snidely Whiplash law
- B. Repealed the wage discrimination statute
- C. Amended the wage discrimination law to make it easier to pursue claims
- D. Is a lovely and alliterative name for a law



C -- Lilly Ledbetter Fair Pay Act

- Signed in 2009
- Amends federal wage discrimination law
- Essentially does away with statute of limitations for wage discrimination claims
- Each allegedly discriminatory paycheck creates a new claim



250,000 Points

E-verify is:

- A. Microsoft's new email security system
- B. Apple's new email security system
- C. The EEOC's new system to categorize discrimination complaints on file
- D. The federal government's system to verify employment eligibility



D -- E-verify system

- Federal databank to check legal authority to work in the US
- Uses social security number database
- Any employer may sign up
- Mandatory as of 2009 for federal contractors and subcontractors



500,000 Points

The federal Employer Free Choice Act:

- A. Would guarantee the right not to join a union
- B. Would guarantee the right to eat in the company dining room
- C. Would permit unions to more easily become certified in a workplace
- D. Would permit employees the right to select certain health insurance options



C -- Employee Free Choice Act

- Would allow union certification based on preference cards without elections
- Would mandate mediation and arbitration at a relatively early stage
- Strongly supported by Democratic Party
- Not enacted yet



1,000,000 Points

The October 2009 FMLA amendments:

- A. Made this law so complicated nobody can understand it
- B. Provided that FMLA leave must be paid
- C. Added military caregiver leave
- D. Added leave for caregivers of injured veterans



D -- October 2009 FMLA changes

- Added leave rights for caregivers of certain injured veterans
- Expands FMLA 26 week military caregiver leave added in 2008
- Also expands leave for family to deal with exigent circumstances of a call-up
 - Had applied to reservists/national guard
 - Now also includes active duty call-ups



If you're not an HR guru yet...

Five action items for 2010

- 1 – Do an I-9 audit
 - ICE (Immigration and Customs Enforcement) increased activity
 - Announced 1000 new audits for US employers
 - Self-audit I-9 compliance
 - Implement current I-9 form



Five action items for 2010

- 2 – Review your vacation/paid leave policy
 - How does vacation accrue
 - Does it mesh with FMLA policy, if applicable
 - Use it or lose it?
 - Payout or forfeit upon termination



Five action items for 2010

- 3 – Review/create confidentiality agreements if appropriate
 - Separate agreements for appropriate employees
 - Definition of confidential information and trade secrets
 - Do you in fact protect the confidential information



Five action items for 2010

- 4 – Update your non-competition agreements
 - Limitations under current NH law
 - Consider non-solicitation agreements
 - Protection of trade secrets and confidential information as a part of non-competition agreements



Five action items for 2010

- 5 – Evaluate FLSA classifications for overtime purposes
 - Wage/hour back overtime claims on the increase
 - FLSA regulations updated recently
 - Review whether salaried employees meet the FLSA duties tests – executive, administrative, professional



Thank you

Questions?