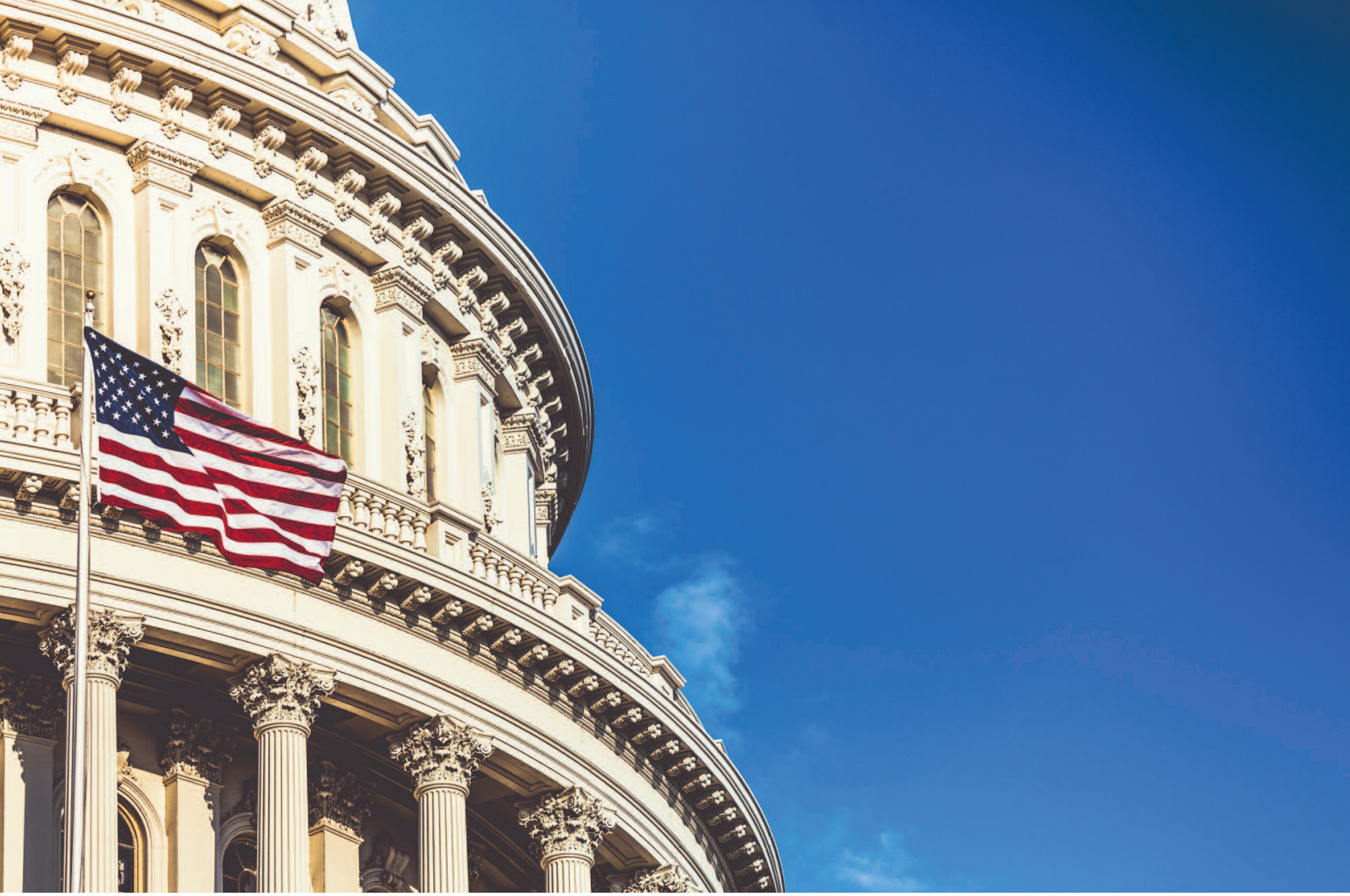

2019 Legislative and Case Law Update

November 29, Ontario | December 3, Sacramento | December 4, San Francisco
December 5, Los Angeles | December 12, Irvine | December 13, San Diego

An Employment Law Breakfast Briefing with

Fisher Phillips

ON THE FRONT LINES OF WORKPLACE LAW™

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Ontario
2019 Legislative Update
November 29, 2018

PROGRAM AGENDA

TIME	TOPIC	PRESENTER
8:30 a.m. – 9:00 a.m.	Registration & Breakfast	
9:00 a.m. – 10:00 a.m.	Legislative Update	Tyler Rasmussen
10:00 a.m. – 10:15 a.m.	Break	
10:15 a.m. – 11:15 a.m.	Case Law Update	John A. Mavros
11:15 a.m. – 12:00 p.m.	Benefits	Melissa Shimizu

New California Employment Laws for 2019

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- **2,225** bills were introduced in 2018.
- **1,016** made it through the legislative process and were sent to the Governor.
- **83.5%** of bills were signed into law.
- **16.5%** of bills were vetoed.

SB 1343: Expanding Sexual Harassment Training

- Currently, under AB 1825, employers with 50 or more employees are required to give two hours of sexual harassment training to their supervisors once every two years.
- This legislation expands the training requirement to include all employers with five or more employees by the year 2020.
- It also mandates one hour of sexual harassment training for nonsupervisory employees by 2020.

SB 1343: Expanding Sexual Harassment Training

- Training of existing employees must be completed by January 1, 2020
- Training of new managers or employees must occur within six months of hire or promotion.
- Training must occur every two years.

SB 1343: Expanding Sexual Harassment Training

- For seasonal and temporary employees, or any employee hired to work for less than six months, training shall be provided within **six months** or within **100 hours worked**, whichever occurs first.
- Training for workers provided by a temporary services provider must be provided by the staffing agency, not the client.

SB 1343: Expanding Sexual Harassment Training

- The Department of Fair Employment and Housing will develop online training programs that employers may, but are not required to, use. You may still do your own training or contract with a trainer other than the DFEH.
- Content of employee training has not been defined.

SB 820: Ban on NDAs for Sexual Harassment

- This law bans any provision in a settlement agreement that would prevent disclosure of factual information relating to a claim filed in civil court or an administrative agency for (a) sexual assault, (b) sexual harassment in business or professional relationships, (c) workplace harassment or discrimination based on sex, or (d) retaliation for reporting sexual harassment/assault.
- Any non-disclosure provision in a settlement agreement made on or after January 1, 2019 will be void.

SB 820: Ban on NDAs for Sexual Harassment

- This law does not ban non-disclosure provisions in pre-litigation settlements.
- No prohibition against non-disclosure provisions regarding the amount paid in settlement of a claim.
- Confidentiality clause that shields identity of claimant (or facts that would reveal identity) may be included at the request of the claimant.

AB 3109: Testifying at a Criminal Trial

- This law bans any settlement agreement from prohibiting an employee from testifying in a subsequent criminal trial, or an administrative, legislative, or other judicial proceeding where criminal wrongdoing is alleged.
- Offending provisions are unenforceable starting on January 1, 2019.

SB 1300: More Limitations

- Employers cannot, in exchange for a raise or bonus, or as a condition of continued employment, require an employee to:
  - release claims or rights under the FEHA; or
  - sign a non-disparagement agreement or other document that prevents disclosure of information about unlawful acts in the workplace including sexual harassment.

SB 1300: More Limitations

- Releases are still allowed if they are in negotiated settlement agreements to resolve a claim filed by an employee in court or an administrative agency, in an alternative dispute resolution forum, or through a company's internal complaint process.

SB 1300: Greater Liability for Harassment By Non-Employees

- Employer may now be liable for all unlawful harassment by non-employees (such as customers or vendors) if it knew or should have known of the conduct and failed to take immediate and appropriate corrective action.
- Liability is no longer limited only to harassment based on sex.

SB 1300: Bystander Intervention Training

- Employer may provide bystander intervention training to teach bystanders how to identify problematic behavior and respond appropriately.
- For now, this training is purely voluntarily.

SB 1300: "Legislative Guidance"

- A plaintiff need only show that a reasonable person who experienced the harassment at issue would find that it so altered working conditions as to make it more difficult to do the job.
- Need not show that tangible productivity declined as the result of harassment.

SB 1300: "Legislative Guidance"

- A single incident of harassing conduct is sufficient to create a triable issue regarding the existence of a hostile work environment.

SB 1300: "Legislative Guidance"

- Discriminatory, "stray" remarks by a non-decision maker or made not in the context of an employment decision may be circumstantial evidence of discrimination.

SB 1300: "Legislative Guidance"

- The standard for unlawful harassment does not vary by type of workplace.
- Summary judgment is "rarely appropriate" in harassment cases.

SB 826: Female Board Members Required

- SB 826 requires that publicly held corporations whose principal place of business is in California must have a certain number of women on their board of directors.
- This requirement starts on December 31, 2019. If no seat is open, the corporation must expand the size of the board and fill the new seat with a woman.

SB 826: Female Board Members Required

- By the end of 2021, a board of directors with five members must have at least two female directors. A board of directors with six or more members must have at least three female members.
- A female is defined as anyone who self-identifies as a woman, without regard to her biological sex at birth.

AB 1976: Lactation Accommodations Expanded

- Existing law requires that space be provided for lactating mothers.
- The new law requires that the lactation accommodation area not be a bathroom.
- Employers can apply to DIR for an undue hardship exemption. If granted, the employer must still provide a room other than a bathroom stall. However, a bathroom itself (such as a single-use bathroom) could suffice.

SB 970 and AB 2034: Human Trafficking Training

- SB 970: This law requires hotel and motel employers to provide 20 minutes of training every two years to all employees who might come in contact with victims of human trafficking. The training must focus on recognizing the signs of human trafficking. The law goes into effect in 2020.
- AB 2034: This law requires operators of mass transit rail and bus stations to provide the same training. The law goes into effect in 2021.

SB 1402: Port Drayage Liability

- SB 1402 creates joint and several liability between customers and port drayage carriers who have unsatisfied judgments regarding unpaid wages, damages, expenses, penalties, or workers' compensation liability.
- The DLSE will publish a list on its website detailing all drayage carriers that qualify.

AB 1654: PAGA Reform, But for Whom?

- The law is limited to the unionized sector of the construction industry.
- PAGA no longer applies to a construction industry employee working under a valid collective bargaining agreement, where the agreement: (a) prohibits all violations of the Labor Code that resemble PAGA and provides for a grievance and binding arbitration procedure to redress those claims, (b) expressly, clearly, and unambiguously waives PAGA's requirements, and (c) authorizes the arbitrator to award any and all remedies otherwise available under the Labor Code.

AB 2282: Salary History Clarification

- Employers cannot ask about **salary history** when making hiring decisions. However, employers can now ask about an applicant's **salary expectations** without fear of violating the law.
- This new law defines "applicant" to mean anyone seeking employment with an employer who is not currently employed by that employer.
- The law also clarifies when an applicant can request a pay scale for the position. A request is reasonable after an applicant has completed an interview with the employer, and "pay scale" means salary or hourly wage.

SB 954: What Happens in Mediation, Stays in Mediation

- This law requires a lawyer representing a client at mediation to disclose, in writing, the mediation confidentiality restrictions provided by California law.
- The lawyer must receive confirmation, in writing, that the client has read and understands the mediation's confidentiality rules.

SB 1123: Military Paid Family Leave

- This law extends existing Paid Family Leave to include time off taken to attend a qualifying exigency related to a spouse, domestic partner, child, or parent's active duty status in the military.
- A qualifying exigency can include: (a) activities undertaken within seven calendar days from the date the family member has been notified about a deployment, (b) attending official military ceremonies, (c) arranging for childcare, (d) attending school meetings, (e) making or updating financial or legal arrangements pre-deployment, (f) acting on behalf of the family member in any proceeding seeking military service benefits, (g) attending counseling, and (h) addressing issues that arise from a family member's service-related death.

Close But No Cigar: Vetoed Bills

- AB 3080: This bill would have banned making mandatory arbitration agreements a condition of employment. Governor Brown vetoed this bill as he believed it "plainly violates federal law." In this case, the federal law being the Federal Arbitration Act ("FAA").
- AB 1870: This bill would have extended the deadline to file a discrimination claim with the Department of Fair Employment and Housing from one year to three years. The Governor said, "I believe . . . that the current filing deadline . . . encourages prompt resolution while memories and evidence are fresh, but also ensures that unwelcome behavior is promptly reported and halted."

Looking Ahead to Next Year

Likely Topics for 2019

- Expansion of paid sick days.
- Accommodation of cannabis use by employees.
- Predictable work schedules.
- *Dynamex* decision:
  - Overturn it.
  - Codify and extend it.
  - Add or increase employer penalties for misclassified independent contractors.

2018 Case Law Update

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Dynamex Operations West, Inc. v. Superior Court

- **Facts**
  - Dynamex delivery drivers of packages to customers
  - Initially classified as employees – converted to independent contractors even though same tasks performed
  - Drivers argued reclassification violated California law

Dynamex Operations West, Inc. v. Superior Court

- **Issue**
  - What legal standard should be applied in determining whether workers are independent contractors for purposes of the California Wage Orders?

Dynamex Operations West, Inc. v. Superior Court

- **Result**
  - Court adopted new "ABC" test – difficult to satisfy
  - Burden on hiring entity to establish all 3 prongs embodied in the "ABC" test
  - Under "ABC" test, a worker is an employee under the Wage Orders unless the hiring entity establishes:
    A. That the worker is free from control and direction;
    B. Performs work outside the usual course of the hiring entity's business; **and**
    C. Is customarily engaged in an independently established trade, occupation, or business.

Garcia v. Border Transportation Group LLC

- **Facts**
  - Case filed prior to *Dynamex* decision
  - Taxi driver alleged misclassification as an independent contractor
  - Brought some causes of action under the Wage Orders and some under other statutory provisions
  - Trial court held he was independent contractor based on the *Borello* test
  - *Dynamex* decision was issued while appeal was pending

Garcia v. Border Transportation Group LLC

- **Issue**
  - Whether the "ABC" test issued in *Dynamex* applies to non-Wage Order claims

Garcia v. Border Transportation Group LLC

- **Result**
  - Court of Appeal held that the "ABC" test set forth in *Dynamex* only applies to Wage Order claims
  - *Borello* test still proper standard for non-Wage Order claims
    - Court concluded that it was logical to apply the "suffer and permit" standard and the "ABC" test to Wage Order claims because the Wage Orders expressly define "employ" in this manner
    - "No reason to apply the ABC test categorically to every working relationship"

Garcia v. Border Transportation Group LLC

- **Takeaways**
  - Whether *Dynamex* has retroactive effect is still unresolved, but several courts have said yes
  - *Garcia* court focused on part C of the "ABC" test – reminder that **all** prongs must be met
    - Critical inquiry is not whether worker is ***"capable"*** of independent business operation, but whether there is an ***"existing"*** showing of such
  - It's still early going in the post-*Dynamex* fallout; this is one of the first appellate court decisions applying the new standard

Alvarado v. Dart Container Corporation of California

- **Facts**
  - Dart had attendance bonus of $15 for any weekend shift regardless of hours worked
  - Dart's formula for calculating overtime was **total compensation/total hours worked**
  - Alvarado argued formula should be **total compensation/regular hours** (i.e., excluding overtime hours)

Alvarado v. Dart Container Corporation of California

- **Issue**
  - What is the divisor for purposes of calculating the per-hour value of a bonus?
    - Hours worked (including overtime)?
    - Non-overtime hours worked?
    - Non-overtime hours that exist in the pay period?

Alvarado v. Dart Container Corporation of California

- **Result**
  - Use only non-overtime hours when calculating a bonus's per-hour value
    - o Court reasoned that bonus was payable even if no overtime worked during the pay period
  - Prospective **and retroactive** application
  - Expressly limited to flat-sum bonuses

Rizo v. Yovino

- **Facts**
  - Aileen Rizo hired as math consultant by Fresno County
  - County's salary procedure was a 5% raise from previous job salary and then placed into a structured salary schedule
  - No other factors were taken into account
  - Rizo learned male colleagues hired in similar roles had higher salaries based on previous job salary

Rizo v. Yovino

- **Issue**
  - Whether, under the Equal Pay Act, an employer may use past salary to justify pay gaps between men and women

Rizo v. Yovino

- **Result**
  - Ruling in favor of Rizo
  - Prior salary alone or in combination with other factors cannot justify a wage differential
  - The "any-factor-other-than-sex" defense is limited to legitimate, job-related factors such as employee's experience, educational background, ability, or prior job performance

Troester v. Starbucks Corporation

- **Facts**
  - Douglas Troester was an hourly shift supervisor for Starbucks
  - Required to clock out on closing shifts before the "close store procedure"
  - Averaged four to ten minutes in off-the-clock work
  - 12 hours and 50 minutes over 17 months of employment ➡ $102.67 unpaid time

Troester v. Starbucks Corporation

- **Issue**
  - Does the FLSA's *de minimis* doctrine apply to California wage claims?

Troester v. Starbucks Corporation

- **Results**
  - California Supreme Court ruled in favor of Troester
  - Starbucks must pay California workers for regular off-the-clock work, even if it is only by seconds/minutes
  - Court encouraged employers to make use of available modern technology for timekeeping

Troester v. Starbucks Corporation

- **Takeaways**
  - Immediately review pre-shift, post-shift, and similar practices to ensure there is no **regularly** occurring off-the-clock work that you should capture as working time
  - Adjust sequence of opening and closing duties where possible
  - Consider technological innovations to capture all working time

AHMC Healthcare, Inc. v. Superior Court

- **Facts**
  - AHMC Healthcare rounded employees' clock-in and clock-out times to closest quarter-hour
  - Study found that certain employees were paid less than they would have been paid had wages been calculated on exact clock-in and out times
  - Emilio Letona and Jacquelyn Abeyta lost an average of .86 of a minute per shift and 1.85 minutes per shift
  - Brought suit on behalf of themselves and other similarly situated employees arguing that "a rounding policy that resulted in any loss to any employee, no matter how minimal, violates California employment law"

AHMC Healthcare, Inc. v. Superior Court

- **Issue**
  - Whether the rounding practice was in compliance with California law

AHMC Healthcare, Inc. v. Superior Court

- **Result**
  - AHMC's rounding practices **were in compliance** with California law, as they were neutral on their face as well as in practice (a rule adopted by the DLSE)
  - Rounding system facially neutral because all time punches were rounded systematically to the nearest quarter-hour without an eye towards whether the employee or employer benefitted from the rounding

AHMC Healthcare, Inc. v. Superior Court

- **Result**
  - A rounding policy does not have to result in a net positive amount for every single employee – some employees will win and some will lose under a neutral rounding policy
    - o Rounding policy not unlawful where a "bare majority" of employees lose compensation due to neutral rounding
    - o Here, 52.1% of employees at one location lost compensation due to the round policy but such was not large enough to demonstrate a lack of neutrality

Epic Systems Corporation v. Lewis

- **Facts**
  - Employee sued Epic individually and on behalf of similarly situated employees for unpaid overtime
  - Epic moved to dismiss, citing the waiver clause in its arbitration agreement – a class and collective action waiver
  - Case was ultimately consolidated with other similar cases because of a circuit split

Epic Systems Corporation v. Lewis

- **Issue**
  - Does an employment arbitration agreement containing a class and collective action waiver violate the NLRA? Or are they permitted by virtue of the FAA?

Epic Systems Corporation v. Lewis

- **Result**
  - Supreme Court's ruling in favor of employers
  - Right to bring class action claims not considered "concerted action" protected by the NLRA
  - Arbitration agreements that include class action waivers are **permitted**

Epic Systems Corporation v. Lewis

- **Takeaways**
  - Rare good news for employers!
  - May continue to incorporate and enforce mandatory class action waivers in employment arbitration agreements
  - Ensure that your arbitration agreements include class action waivers
  - Revisit any "opt-out" provisions you may have included before this decision

2018 Benefits Law Update

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Benefits Law Update

- Health and Welfare Plan Update
  - Covered California and IRS ACA Notices
  - HRA Proposed Regulations
  - EEOC Wellness Regulations Litigation
  - HIPAA Privacy Settlement
- Retirement Plan Update
  - CalSavers
  - 401(k) and Student Loan Repayments
  - Changes to Hardship Distribution Rules

Covered California and IRS ACA Notices

Covered California Notification Letters

- Covered California Issuing Letters (Section 1411 Certifications) to Employers
  - One or more employees is receiving the Premium Tax Credit (PTC) because they have indicated that they did not receive an offer of affordable, minimum value coverage from the employer
  - Letters are required prerequisites to IRS Employer Mandate assessments
  - Employers should respond, appeal (within 90 days), using the linked form that is provided and submitting supporting documentation
  - Employers may, but are not required to, provide notice of appeal to employee
  - Employees may be required to reimburse PTC already received

IRS Employer Shared Responsibility Assessments

- IRS continues to send out 226J letters
  - Notice of proposed assessment relating to Employer Shared Responsibility Payment (ESRP) for "a" and/or "b" penalties
  - 226 J Letter will include a summary table and explanation, response due date, and other information
- May be errors on the IRS Forms 1094-C and/or 1095-C that resulted in proposed assessment
- If an employer received a 226J letter from the IRS, but did not receive a 1411 certification from the exchange (Covered California), may be basis for appeal

IRS Employer Shared Responsibility Assessments

IRS Employer Shared Responsibility Assessments

- Responses:
  - 30 days to respond, and may request 30 or 60 day extension
  - Use Form 14765 and explanatory cover letter with supporting documentation
- Further IRS Communications (the "227" series):
  - 227K: "all good"
  - 227L: "reduced assessment"
  - 227M: "thanks for playing, now pay up"
- May request pre-assessment conference if disagree, pay attention to deadlines

HRA
Proposed Regulations

HRA Proposed Regulations

- October 12, 2017 Executive Order:
  - Sec. 4. Expanded Availability and Permitted Use of Health Reimbursement Arrangements.
    - Within 120 days of the date of this order, the Secretaries of the Treasury, Labor, and Health and Human Services **shall consider proposing regulations or revising guidance**, to the extent permitted by law and supported by sound policy, **to increase the usability of HRAs, to expand employers' ability to offer HRAs to their employees, and to allow HRAs to be used in conjunction with non-group coverage**.

HRA Proposed Regulations

- If finalized, the regulations will apply to plans beginning January 1, 2020.
- This would create HRAs that are integrated with individual health insurance coverage, ICHRAs, when certain requirements are met:
  - IHIC enrollment during entire period of HRA coverage
  - Cannot offer ICHRAs *and* group health plan to same class of employees
  - Same terms to all employees within a class
  - Annual opt-out and waiver of future coverage option
  - Reasonable verification and substantiation procedures
  - Advanced detailed written notice that, *inter alia*, confirms participant may be ineligible to participate in PTC

HRA Proposed Regulations

- Other Details:
  - Excepted Benefit HRAs, EBHRAs, up to $1,800/year, would be treated as "excepted benefits" that can be used for reimbursement of medical expenses
  - QSEHRAs would not be treated as HRAs for purposes of these regulations
  - IHICs would not be considered ERISA welfare benefit plans as long as certain requirements are met
- *Stay tuned:*
  - Treasury and IRS intend to issue guidance for a safe harbor re-application of employer mandate to ICHRAs (affordable and minimum value)
  - Comments by December 28, 2018

EEOC Wellness Regulations Litigation

EEOC Wellness Regulations Litigation

- Regulatory Framework
  - ADA limits medical examinations and certain disability related inquiries
  - GINA prohibits requiring genetic information
  - HIPAA and ACA regulations
- Background
  - 2016 EEOC issued Wellness Program Regulations
  - Incentives of up to 30% of the cost of self-only coverage is considered voluntary

EEOC Wellness Regulations Litigation

- Lawsuit
  - August 2016 – AARP sued alleging that 30% is not consistent with voluntary under the ADA and GINA
  - August 2017 – Court ruled that the EEOC did not provide a reasoned explanation for choosing 30% and remanded matter to EEOC
  - EEOC stated they would not have effective regulations until 2021
  - December 2017 – Court vacated the EEOC wellness regulations effective January 1, 2019

EEOC Wellness Regulations Litigation

- Next Steps
  - Does not impact HIPAA or ACA wellness regulations
  - Only impacts EEOC regulations:
    - Health risk assessment
    - Biometric screenings
    - Disability related inquiries
    - Family medical history
- Recommendations

HIPAA Privacy Penalty

HIPAA Privacy Penalty

- $16 million HIPAA Penalty Background
  - Anthem discovered spear phishing email security breach in early December 2014
  - Did not file a breach notification until late January 2015
  - Compromised nearly 79 million people's ePHI
  - **Reasons for the large settlement**
    - Delay in notification
    - Lacked robust policies and procedures to prevent and respond

$115 million settlement of class action lawsuit

CalSavers

CalSavers Retirement Savings Program (formerly known as California Secure Choice Program)

- Only applies to employers who do not offer a 401(k).
- It is a Roth IRA (after-tax) and funded with employee payroll contributions
- Default savings rate is 5% with annual automatic escalation up to 8%, which employees can change anytime
- Employees are auto-enrolled within 30 days and can opt-out anytime
- No fees and employers cannot make contributions
- Employees make investment choices

CalSavers (continued)

- Pilot program in effect now
- Registration for eligible employers beginning on **July 1, 2019**

Size of Business	Deadline for Compliance
100< employees	June 30, 2020
50< employees	June 30, 2021
5+ employees	June 30, 2022

401(k) and Student Loan Repayments

401(k) and Student Loan Repayments

- Background
  - Employer matches up to 5% of employee's compensation if an employee defers 2% or more of compensation
  - Employer proposed that if an employee make a student loan repayment equal to 2% of more of compensation, the employer will make a 5% non-elective contribution to account
  - Both have true-up feature, may opt out, same vesting schedule, etc.
- IRS Conclusion – Does not violate the contingent benefit rule
- Challenges

Changes to Hardship Distribution Rules

Changes to Hardship Distribution Rules

- Plans must eliminate the six-month contribution suspension after a hardship distribution made on or after January 1, 2020
  - Changes may be implemented January 1, 2019 and can affect distributions made prior to that date
- May eliminate the requirement to take plan loans first
- May take distributions from QNEC, QMAC and safe harbor contributions

Changes to Hardship Distribution Rules

- Casualty loss does not need to be tied to a disaster to qualify for 2018
  - In 2019, a plan cannot require that the loss is tied to a disaster
- New withdrawal reason – a federally declared disaster
- Plans will have until the end of the second calendar year that begins after the issuance of the Required Amendment List

Thank You

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Tyler Rasmussen is a partner in the Irvine office. His litigation practice involves representing employers in various aspects of labor and employment law, including employment discrimination, harassment, and retaliation claims, wage and hour violations, trade secret protection, and various administrative proceedings.

Tyler also regularly counsels employers with difficult employment issues with their workforce including discrimination and harassment complaints and investigations, disciplinary actions, leaves of absences, and wage-hour laws.

Tyler has defended employers in civil litigation in state and federal court, as well as arbitration. Tyler has also defended employers before federal and state administrative agencies including the Department of Labor, the Division of Labor Standards Enforcement (DLSE), Department of Fair Employment and Housing, Equal Employment Opportunity Commissions, and the California Unemployment Insurance Appeals Board (CUIAB). He regularly provides human resource training to clients and speaks to employers and employer groups regarding labor and employment issues.

While in law school, Tyler participated in the Los Angeles Family Law Clinic and served as the managing editor of the *Loyola International and Comparative Law Review*.

He is also the co-founder of the non-profit foundation "Heartbeats

PRACTICES

Employment Discrimination and Harassment

Prevention and Compliance

Litigation of Employment Disputes

Labor and Employment Litigation

Healthcare

California Employment Law

Class and Collective Actions

EDUCATION

Loyola Law School
J.D. 2010

University of California, Los Angeles
B.A. 2007

BAR ADMISSIONS

California

for Tom Rasmussen" which donates automatic external defibrillators to local schools and sports facilities and is active with Cystic Fibrosis Foundation.

Experience

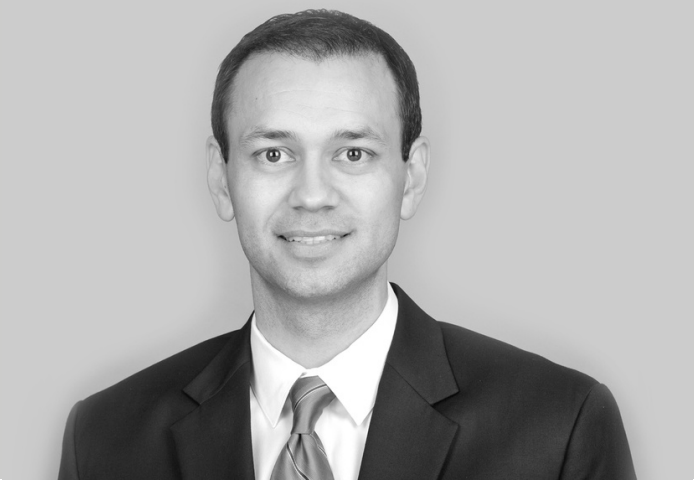
- Tyler and Lonnie Giamela received a full defense arbitration award in disability discrimination/unpaid wages suit brought against dealership.
- Tyler obtained a full defense verdict during a three day bench trial on an independent contractor misclassification claim brought against a landscaping and construction company.
- Tyler successfully obtained a full defense verdict for a wage and hour claim appealed to Orange County Superior Court, recovering reasonable attorneys' fees and costs for the defending medical treatment corporation.
- Tyler and Todd Scherwin, on behalf of a franchisee of retail shipping, postal, printing and business services obtained a large settlement against a former employee/manager who attempted to steal customers and information from the franchisee.
- Tyler Rasmussen obtained summary judgment in arbitration on behalf of dealership in a sexual orientation discrimination and retaliation claim brought by a former employee.
- Tyler Rasmussen, with Grace Horoupian, obtained summary judgment in arbitration on behalf of employer in a wrongful termination and retaliation claim brought by a former employee.
- Tyler represents various clients before governmental agencies including, but not limited to, California Department of Fair Employment and Housing, Equal Employment Opportunity Commission, California Division of Labor Standards Enforcement, California Employment Development Department and United States Department of Labor Wage-Hour.

Honors & Awards

- *Southern California Super Lawyers* – Rising Stars (2018)

Community Activities

- Board of Directors, The Bay Foundation



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John A. Mavros is a partner in the firm's Irvine office. He regularly litigates employment claims on behalf of management and employers. John represents his clients in all aspects of employment law, including wrongful termination, discrimination, harassment, and retaliation. He also defends unpaid wage claims, on both an individual and class action basis, arising from minimum wage, overtime, and meal/rest period claims.

A significant part of John's practice involves legal counsel for day-to-day workforce issues. This includes topics such as employee hiring, discipline, and terminations, as well as medical leaves of absences. John also regularly assists his clients with employee handbook preparation and sexual harassment training.

John is well-known for his employment law expertise and is a regular speaker for trade associations. Most recently, John presented at the 2018 Asian American Hotel Owners Association Convention (AAHOA) in Maryland on why a compliant employee handbook is critical to business success. John was also on a panel at the 2018 Wyndham Global Conference in Las Vegas, discussing how best to attract, hire, and retain employees in the hotel industry

John is responsive to the needs of his clients and provides a high level of service his client can trust. John is an active sponsor of AAHOA and the Anaheim/Orange County Hotel and Lodging Association (AOCHLA). In law school, John graduated cum laude and was a member of Chapman Law Review's Executive Board. He also served as an extern for the Honorable George P. Schiavelli of the

PRACTICES

Americans with Disabilities Act

California Employment Law

Employment Discrimination and Harassment

Hospitality

Litigation of Employment Disputes

Prevention and Compliance

Wage and Hour Law

Wrongful Termination

EDUCATION

Chapman University School of Law

University of California, Irvine

BAR ADMISSIONS

California

COURT ADMISSIONS

Supreme Court of California

U.S. District Court for the Central District of California

U.S. District Court for the Northern District of California

U.S. District Court, Central District of California, in Los Angeles.

Before attending law school, John worked for a hotel management company that focused on revitalizing and restoring profitability to hotels and motels. John's experience in this industry has allowed him to provide unique insights for his hospitality clients and to understand that customer service is a number one priority.

Professional Activities

- Orange County Bar Association (OCBA)
- UC Irvine – Dean's Leadership Society
- AAHOA – Largest Hotel Owners Association in the World
- Anaheim/Orange County Hotel and Lodging Association
- California Hotel & Lodging Association

News

Seven Southern California Fisher Phillips Attorneys Promoted to Partner
1.3.17

Seminars & Speaking Engagements

How to Avoid a Costly Wage and Hour Lawsuit
4.18.18

Attract, Hire, Retain – Wyndham Global Conference
4.9.2018 - 4.11.2018

Employee Handbooks 101 - AAHOA Convention and Trade Show
3.27.2018 - 3.29.2018

Ensuring Safety in the #MeToo Era: Creating a No Tolerance Workplace
3.6.18

Wage and Hour for Hoteliers
10.3.17

Three Case Studies in Employment Law: What's the Worst That Could Happen?
8.21.16

MELISSA SHIMIZU

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Melissa Shimizu is an associate in the firm's Irvine office. She focuses on helping employers navigate the Employee Retirement Income Security Act (ERISA) and other state and federal laws impacting the design, implementation and ongoing compliance of their employee benefit plans and programs. She advises clients with respect to all aspects of employee benefits, including retirement plans, health and other welfare benefit plans.

Professional Activities

- Member, Japanese American Bar Association

Seminars & Speaking Engagements

What Colleges and Universities Need to Know About 403(b) and 401 (k) Plan Fee Litigation and Fiduciary Liability
Webinar

GoToWebinar, 9.28.16

Articles

Irvine Attorney Previews New ACA Penalties
11.2.18

PRACTICES

Defined Benefit Plans

Employee Benefits

Health and Welfare Plans

Health Insurance Portability and Accountability Act

Multi-Employer Pension Liability

Qualified and Nonqualified Retirement Plans

EDUCATION

Cornell Law School
J.D. 2011

University of Southern California
B.A. 2008

BAR ADMISSIONS

California

COURT ADMISSIONS

U.S. Court of Appeals for the Ninth Circuit

U.S. District Court for the Central District of California

U.S. District Court for the Southern District of California

An Employer's Guide to Handling Missing, Incorrect TINs
9.28.16

Legal Alerts

Feds Ratchet Up Employer Penalties, Effective Later This Summer
7.6.16

Newsletter Articles

The Next Wave Of ACA Penalties Is Here
8.31.18

Reference-Based Pricing: Another Self-Insured Option for Employers
6.1.18

HSA Limit Changes
6.1.18

What Every Employer Needs To Know About The Tax Reform Law
3.1.18

President Trump Once Again Attempts To Dismantle The Affordable Care Act
11.28.17

IRS Will Enforce Employer Mandate Regardless Of Any Executive Orders
9.5.17

Telemedicine: Proceed With Caution
5.31.17

Documentation Relief For Hardship Distributions
5.30.17

A New Employer Healthcare Plan: Qualified Small Employer Health Reimbursement Arrangement (QSEHRA)
3.1.17

What Employers Need To Know About Mandatory Payroll Deduction Savings Programs
12.2.16

The Clock Is Ticking – ACA Nondiscrimination Rules Will Take Effect January 1
12.2.16