



## Labor & Employment Digest: March 2014

News

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Howard Mavity was quoted in an article entitled "Labor and Employment Digest: February 2014," published in *Inside Counsel*.

*InsideCounsel* brought together the voices of legal professionals to get their take on the issues shaping the policies of workplace compliance and regulation.

### Whistleblowing in the "miner" key

In 2013, the Mine Safety and Health Administration (MSHA) continued to focus its resources on enforcement and whistleblower claims. MSHA issued four Pattern of Violation (POV) notices in 2013, employing its new POV standard that is currently being challenged by the mining industry based on the argument that MSHA exceeded its authority in issuing the POV Final Rule. MSHA also continues to utilize impact inspections to target mines with increased injury and illness rates, or significant violation history. MSHA's enforcement of whistleblower claims has increased significantly over the past several years and MSHA continues to devote resources to this area. MSHA released an updated Miners' Rights Guide in an effort to increase awareness of whistleblower protections.

### Temp training temptations

"The message here is not about an overreaching agency but about unintentional but significant corporate failings. The Occupational Safety and Health Administration (OSHA) has rightly determined that many temporary employees fall through the cracks and do not receive the same safety training as 'full time' employees or are not included in respiratory protection or hearing conservation programs ... even though they are exposed to the same hazards," Howard explained. "The proliferation in the use of temps, including as a part of 'temp to hire' programs or where 'temps' stay on for months or years has exacerbated the risk. In a number of high profile cases this year, a temp employee was killed on the first day of work. No matter the reasons, OSHA will be inclined to find 'willful' conduct."

[Read the full article.](#)

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