



Howard's Weekly Roundup - January 27 - Part 1.

Insights

1.27.18

Thanks for the input on topics you'd like to see and on your own observations to reference in the weekly Update. **In order to keep this report short, we're shifting most book, movie and certain other categories to the full Update, which can be found at Howardmavity.com.** We'll also cover many of these subjects in the Podcast and two related domains will soon be up and involve a number of FP attorney and guests.

Please don't miss the Reader comments in Part 2 about topics important to them or observations about safety, employment law, books, podcasts and even music! The last one is three meaty pages of responses to wide-ranging questions.

This Week's Labor, Employment Law and OSHA Legal Developments.

1. Thanks to FP **OFCCP/Affirmative Action** partner [Cheryl Behymer](#) for this warning that in response to the Me-Too movement and focus on pay inequalities between men and woman, the OFCCP has announced that it will focus more on compensation disparities, instead of hiring disparities. Don't assume that the Trump OFCCP will just go away.
2. **Will unions use the Me-Too movement and reports of sex harassment to target female employees for organizing?** I pondered this question after reading the following fiery article: When Women Have a Union, We Don't have to Walk in Alone.
3. Employers continue to be hammered by **Lock Out and Guarding Issues**. Just this week's headlines: **New York Ingredients Factory Hit With \$300K in Worker Safety Fines** (following an employee losing a hand). **OSHA Cites Gainesville Poultry Processing Company \$300,000 for Amputations** (related to machine guarding), and OSHA **Cites Pallet Manufacturer \$91,000 After Employee Injured by Machine**. I know one of these employers and it is solid, which means that **"good companies" get hit with OSHA citations.** These common cases present a toxic mix of Repeat exposure based on ever-present issues, challenging guarding situations, and variance in different company sites management of maintenance, compliance and safety. [#Workplacesafety](#).

This week we'll post days for a two-part FP Webinar on Common Lock Out and Guarding Challenges and related issues.

Relevant News.

1. **Workplace Violence.** Mass Shootings prompt employer focus on security, but the far more numerous single attacks gather less press. The Hospitality Industry presents a high number of

numerous single attacks garner less press. The hospitality industry presents a high number of security threats as reminded by the recent shooting of an Atlanta restaurant manager. Even upscale restaurants wrestle with protecting employees as they close out after the evening shift. [AJC Article on Atlanta Restaurants' responses.](#)

2. **Preventing Catastrophes.** At FP, especially in our catastrophe management Practice Group, we regularly remind employers that not all business catastrophes involve loss of life. Today's news provided another example of how employment claims, whether valid or not, can damage a company's reputation. Yesterday, [the WSJ ran an article](#) on the amazingly successful casino developer Stephen Wynn about dozens of allegations of harassment. Apparently, the spark for this fire is his ex-wife and major stockholder's suit against him seeking to eliminate limits on how she uses her company stock. We'll not get into the merits, but in order to illustrate the potential harm of these attacks, consider the WSJ's description of a recent Wynn Companies securities filing which cited possible risks to the business: *The company said, "If we lose the services of Mr. Wynn, or if he is unable to devote sufficient attention to our operations for any other reason, our business may be significantly impaired."* Not surprisingly a [later WSJ report](#) stated that the report shaved \$2 billion dollar off of the publically traded stock in one day. One assumes that the value will recover but the message was pretty clear. Protect your company.
3. What's up with **DACA and Immigration Reform**? The WSJ provided an excellent [summary of what President Trump has proposed](#). DACA expires on March 5 unless Congress extends it. However, we'll have fireworks before then with **the budget extension only to February 8.** ([Good summary of the politics](#) before Trump's latest proposal).
4. **Schools in at least 11 states have closed as the worst flu epidemic in nearly a decade intensifies.** Everybody knows that this year's Flu Season is unusually bad and oddly, next to the elderly is most affecting Baby Boomers. We've got about nine weeks to go and the flu and other respiratory illnesses are affecting business productivity. **ACTION POINTS.** Ensuring consistent hand washing and getting sick employees to stay home are still the main things an employer can do. Also, use susceptibility to the Flu as an excuse redouble Wellness efforts and emphasize the need for good sleep. ([See last week's Roundup](#)). Previous FP Blog [Post 1](#) and [Post 2](#), [OSHA Flu page](#) and [NIOSH Flu in the Workplace page](#).
5. **To better understand the problems with our current Budget and Debt process,** I've pasted below two explanatory paragraphs from a UBS Newsletter sent me by an Atlanta UBS friend, [Richard Grodzicki](#).

Broken Budget Process. Much criticism has been made of the budget process in Congress that requires the frequent need for the passage of temporary government funding plans ("continuing resolutions" or "CRs") that often are accompanied by controversial issues. That criticism is on the mark—the congressional budget and appropriations processes for the most part have been broken over the last 40 years. Every year, Congress is required to pass (1) a budget, and (2) twelve separate appropriations bills that fund federal agencies and functions per the budget's instructions. Since 1977, Congress has only passed all of its appropriations bills four times (yes, only four), which then forces the House and Senate to craft one giant spending bill for passage. This one bill is a big

magnet for mischief and usually doesn't reflect the kind of scrutiny that a budget funded by taxpayers deserves. This has been a problem regardless of which party has had control in Washington. *Budget reforms have been offered and ignored by both parties, and perhaps this latest chaos will build some momentum for them.*

Relationship with Debt Ceiling. We have received many inquiries on the connection between the need for Congress to extend the debt ceiling and the need to approve continued government funding. The two are separate measures and should be dealt with in separate votes. However, if the politics make it easier and the timing is right, they could be connected in the current debate over government spending. The government funding deadline of February 8 is approaching the separate deadline for extending the debt ceiling (most likely in mid-March), and the two could be paired if Congress wants to knock out two birds with one stone. *This combination makes sense to us because most in Congress are eager to move to less contentious issues, but we are not predicting this will happen at this point.*

Articles, Books and Podcasts This Week that May be Helpful in Meeting Labor, OSHA and Employment Law Challenges.

1. **Employers tell me that they are getting serious about seeking Employee Engagement. Check out Kevin Kruse' short practical Forbes article: 5 Things Every Manager Needs To Know About Employee Engagement.**
2. **For your Wellness efforts and personal health:** Listen to TMHS 264: The Facts About Your Dirty Genes: Methylation, SNPs, & Drinking Wine - With Dr. Ben Lynch from The Model Health Show: Nutrition | Exercise | Fitness | Health | Lifestyle in Podcasts.
<https://itunes.apple.com/us/podcast/model-health-show-nutrition-exercise-fitness-health/id640246578?mt=2&i=1000400025487>**This Article provides an excellent list of podcasts which you may want to explore: 10 Podcasts That Will Make You Smarter | Inc.com.**