



Human Resources Committee

Chair: Cory King
Employer Lawyers

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**Don't let your shop
become a
TOTAL LOSS!!!!**

Presentation by the
HUMAN RESOURCES
Committee
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What would it take?

CA Labor Code violations:

Initial Violation = \$100.00 per person per pay period

Repeat Violation = \$200.00 per person per pay period

30 employees = \$17,333.33 per year x 3 years =
\$52,000.00

PLUS:

- Any underpayments to employees
- Attorneys fees
- Interest
- Any other penalties



What would it take?

Discrimination / Harassment Claims:

Lost back & future wages = \$\$\$\$\$

“Emotional distress” = \$\$\$\$\$

Punitive Damages = \$\$\$\$\$

PLUS: Attorneys fees (both sides!)
 Damage to reputation
 Lost time and energy



The “Big Hits”

Things that can take you out of the game!

- Wage Hour Claims
- Harassment / Discrimination Claims
- Code / Regulatory violations



Wage Hour Claims

- What is “wage hour”?
 - ◆ Meal & Break Periods
 - ◆ Exempt / Non-Exempt Status
 - ◆ Overtime



Wage Hour Claims

- Meal & Break Periods – The “1-2 combination”!
 - ◆ Who gets them? How long? When?
 - ◆ Paid or unpaid?
 - ◆ “Can I just ‘work through’ today?”
 - ◆ Time records & certification!



Wage Hour Claims

- Exempt / Non-Exempt Status? –
The “set up punch”!
 - ◆ Which exemption applies?
 - ◆ Executive
 - ◆ “7(i)” – Retail commission
 - ◆ Beware State v. Federal!!!!



Wage Hour Claims

- Overtime – The “knock out punch”!
 - ◆ Are your employees properly classified?
 - ◆ Do you have clock hour records?
 - ◆ Do you know how to use the “fluctuating workweek” method?
 - ◆ How do you control overtime in your shop?



Harassment / Discrimination Claims

The “Protected Categories”:

- Race
- Religion
- Color
- Sex
- Sexual Orientation
- National Origin
- Ancestry
- Citizenship Status
- Uniform Service Member Status
- Marital Status
- Pregnancy
- Age
- Medical Condition
- Disability
- Gender Identity



Harassment / Discrimination Claims

DO NOT

Make **ANY** employment
decision based on a
protected category!!!



Harassment / Discrimination Claims

BE CAREFUL

When you make **ANY** employment decision regarding an employee who is in a protected category!!!

When in doubt – GET HELP!



Harassment / Discrimination Claims

- What is Sexual Harassment?
 - ◆ Quid Pro Quo
 - ◆ “Hostile Work Environment”
- “Strict Liability” for managers!!
 - ◆ Get out your checkbook!!!



Harassment / Discrimination Claims

The Importance of Preventive Action

An employer may avoid liability if it can show:

- That the employer exercised reasonable care to prevent and promptly correct any sexually harassing behavior.
- That the employee unreasonably failed to take advantage of any preventive or corrective opportunities to avoid the harm.



Harassment / Discrimination Claims

- So how do you prevent/limit liability?
 - ◆ Solid, Effective Policies
 - ◆ Effective Employee Handbook
 - ◆ Train Managers
 - ◆ Properly investigate
 - ◆ Take prompt action to remedy



Code / Regulatory Violations

- Correct and complete records
- Correct and complete paychecks
- Posting Requirements
- I-9 Compliance



Thank You!
Human Resources Committee

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