

EMPLOYMENT LAW BRIEFING

Autumn 2007

New I-9 Forms: The USCIS (U.S. Citizenship & Immigration Services) announced this month that the long-awaited Employment Eligibility Form (I-9) revision is now available. Employers must complete the form for each employee hired in the United States. Section 1 (Employee) must be completed at the time of hire and Section 2 (Employer) must be completed within three days of employment. Completed forms must be retained for three years from the date of hire, or one year after separation from employment – whichever is later. The revised form features the removal of five documents formerly used for proof of both identity and employment eligibility. Employers should begin using the new forms immediately for new employees and for re-verification of expired documents for existing employees. Copies of the revised I-9, and the USCIS Employer Handbook, are available online at www.uscis.gov. Please call our office for assistance with managing identity and employment eligibility verification.

Minimum Wage Increases: On January 1, 2008, the inflation-indexed minimum wage rates for Washington and Oregon will increase. The Washington rate will rise fourteen cents per hour, to \$8.07, and remain the highest minimum wage in the U.S. Oregon's rate will increase by fifteen cents per hour, to \$7.95. In July, the federal minimum wage increased from \$5.15 to \$5.85 per hour. The federal rate will rise again, to \$6.55 per hour, on July 24, 2008.

Check Your Handbook: Do you regularly hear from employees who are away from work for indefinite periods due to on-the-job injuries or other medical reasons? Regular communication with absent employees is critical to effectively manage limited duty work opportunities, statutory leave and insurance continuation ("COBRA"). We recommend using a routine call-in requirement to ensure scheduled contacts with employees on indefinite medical leave. Please contact our office for sample policy language or for assistance with handbook review and revision.

OFLA Leave Restricted for Injured Workers: Effective January 1, 2008, Oregon Employers with twenty-five or more employees will no longer be able to consider absence due to an on-the-job injury as statutory leave, due to the employee's own serious health condition, under the Oregon Family Leave Act ("OFLA"). If an eligible injured worker refuses a "light" duty job offer, however, OFLA leave will be automatic – even if not requested by the employee. The change will complicate statutory leave administration for Employers, with fifty or more employees, who are also subject to the federal Family and Medical Leave Act ("FMLA"). Under FMLA, an on-the-job injury may constitute a serious health condition for purposes of statutory leave. As a result, the absence of an injured worker may be counted as FMLA leave, but not OFLA leave. Please call for assistance with updating, reviewing or administering your statutory leave policies.

Best Practice Tip: Keep all original I-9 forms together in a dedicated file. Copies may be kept in individual personnel files. A separate "master" file will simplify periodic self-audits recordkeeping procedures and the process of responding to formal regulatory audits.

Please contact our office if you have questions about the material in this newsletter, or other employment law compliance concerns.

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