

EMPLOYMENT LAW BRIEFING

SPRING 2008

Rest Periods: Oregon regulations for *minimum employment conditions* require rest periods of at least ten minutes, for every four hours (or major segment thereof) worked, without deduction from pay. Last month, in ***Gafur v Legacy Good Samaritan Hospital***, the Oregon Supreme Court ruled that employees could not sue for additional wages from missed rest periods under current regulations. The Court noted that Employers are already subject to civil penalties, of up to \$1000.00 for *each* violation, and that such violations are also punishable as misdemeanors. The Bureau of Labor & Industries argued that its rules allowed employee lawsuits for additional wages. The Court's decision may well prompt changes to the rules governing rest periods.

Genetic Information Protections: On May 21, the federal Genetic Information Nondiscrimination Act ("GINA") was signed into law. Beginning in November of next year, Employers with fifteen or more employees will be prohibited from discriminating with respect to hiring, compensation or terms and privileges of employment, based upon the genetic information of an employee, or family member, including the employee's spouse, dependent child, adopted child, parents, grandparents and great-grandparents.

Breastfeeding Support: Oregon has joined twenty-one states, including Washington and California, in adopting workplace regulations to support breastfeeding of infants. Oregon Employers, with twenty-five or more employees, are required to provide reasonable unpaid rest periods to accommodate an employee's need to express milk for her child of up to eighteen months of age. A thirty minute rest period must be provided for each four hour (or major segment thereof) period worked. If the rest period coincides with a required paid rest period, only the additional time provided for expressing milk, is to be unpaid. Employers may allow unpaid time to be worked by the employee at the beginning or end of her scheduled work period. Employers must also make reasonable efforts to provide a private location, other than a toilet stall or public restroom, in close proximity to the employee's work station, for milk to be expressed. The law also provides an exception if compliance would create an undue hardship. Please call our office for more information or for compliance assistance.

Poster Updates: The first step in many administrative complaint investigations, and regulatory compliance audits, is checking to see if current versions of mandatory employment posters are properly displayed in the workplace. In addition to the new FMLA poster introduced this year, a new federal wage and hour poster will be required when the federal minimum wage rises from \$5.85 to \$6.55 on July 24.

Best Practices Tip: A negotiated separation is worth exploring if you are considering terminating a contentious employee. Such an approach typically includes individualized severance benefits in exchange for a formal agreement releasing potential employment claims. Separation packages invariably cost less than defending against allegations of discrimination. Please call for assistance in exploring and implementing negotiated separations.

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

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