What Employers Need to Know for 2017: New Laws and Practical Strategies for Avoiding Employment Issues and Disputes

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ON THE AGENDA FOR THIS PORTION OF THE PRESENTATION

- Top California Legislative Updates Impacting Employers
- Significant New Cases Affecting Employers
LEGISLATIVE UPDATES

Unless noted otherwise, all laws are effective January 1, 2017.
Update and Expansion of Fair Pay Act (SB 1063 and AB 1676)

- Existing law prohibits an employer from paying an employee at wage rates less than the rates paid to employees of the opposite sex for work requiring the same skill, effort, and responsibility.

- SB 1063 expands the provisions of the Fair Pay Act of 2015 to prohibit employers from paying employees a wage less than the wage paid to employees of a different race or ethnicity for substantially similar work.

- “Substantially similar work” is “work that is mostly similar in skill, effort, responsibility, and performed under similar working conditions.” - Division of Labor Standards Enforcement, FAQs on California’s Equal Pay Act.
Update and Expansion of Fair Pay Act (SB 1063 and AB 1676)

- Existing law also provides an exception where payment is based on a bona fide factor other than sex, such as education, training, or experience.

- AB 1676 clarifies that prior salary does not fall within the bona fide factor exception and prohibits employers from considering prior salary history to justify a gender-based wage differential.
DISCRIMINATION

Same-Sex Bathrooms – AB 1732

- This law requires all single-user toilet facilities in any business establishment, place of public accommodation, or government agency to be identified as “all-gender” toilet facilities.
- Only applies to single-user facilities.
- The law will be effective on March 1, 2017.
Small business owners have been subjected to abusive lawsuits filed for technical violations of ADA building accessibility standards and similar state law.

The law is intended to curtail these types of claims. Creates a rebuttable presumption for business with 25 or fewer employees that certain technical violations of ADA do not cause a plaintiff to experience difficulty, discomfort, or embarrassment for the purposes of minimum statutory damages as long as certain conditions are met.

- Violations covered primarily include: indoor and outdoor signage, condition of parking lot striping, and detectable warning surfaces on access ramps.
- A business would have 15 days from notice of violation to correct in order for the rebuttable presumption to apply.
ADA Small Business Protections from Technical Violation Suits – SB 269 (Effective May 11, 2016)

- Businesses with 50 or fewer employees would be able to hire a certified access specialist to conduct an inspection prior to any notice of alleged violations and would then have 120 days to fix violations before liability for the minimum statutory damages would apply.
Expansion of Fair Employment and Housing Act ("FEHA") to Cover Employment Eligibility Verification Practices – SB 1001

- SB 1001 makes it unlawful under FEHA for an employer to:
  - Request more or different documents than are required under federal law;
  - Refuse to honor documents tendered that on their face reasonably appear to be genuine;
  - Refuse to honor documents or work authorization based upon the specific status or term of status that accompanies the authorization to work; or
  - Reinvestigate or re-verify an incumbent employee's authorization to work (including upon promotion or reassignment).

- Violators may be subject to a penalty of up to $10,000.
DISCRIMINATION

- Side note: a New Form I-9 was issued November 14, 2016
- Can use prior 2013 version until 1/22/2017.
  - Streamlined. Fillable version has 4 pages; paper version is 3 pages.
  - Instructions are separate.
  - 2013 version was 9 pages.
- Must keep entire Form I-9 for recordkeeping.
- Remember to switch to updated version.
Prevention of Discrimination in Public Contracts – AB 2844

- AB 2844 requires prospective contractors attempting to bid, propose, or renew a contract of $100,000 or more with a state agency to certify their compliance with preexisting anti-discrimination laws (i.e. Unruh Civil Rights Act and the Fair Employment and Housing Act).

- Contractors must also certify that any business practices or policies they have against a sovereign nation will not be used to unlawfully discriminate.
DISCRIMINATION

Prohibition on Inquiring About Juvenile Court Actions – AB 1843

- Expands restrictions on obtaining criminal background information for employment purposes.
- Existing law allows for obtaining information on convictions (subject to certain restrictions on timing – i.e. San Francisco ordinance and other state laws: cannot occur prior to first interview).
- Employers may not seek or use any information related to juvenile arrests, detentions, convictions, or court dispositions as a factor in their employment decisions.
- Limited exception for employers at health care facilities.
The Fair Employment and Housing Commission issued new regulations that became effective April 1, 2016 to enforce the Fair Employment and Housing Act.

The regulations require employers to have a written policy prohibiting harassment, discrimination and retaliation with the following specific requirements among others:

- A list of all protected categories.
- A complaint process that meets certain criteria.
- No requirement that employee has to report the complaint to his/her direct supervisor.
- Must be distributed to all employees in a manner that ensures receipt.
- Must be translated into any language that is spoken by at least 10% of the workforce at the facility.
The Equal Employment Opportunity Commission issued new procedures for handling disclosure of Respondent’s position statements to Charges. Effective January 2016. The new procedures provide that:

- The EEOC will provide the Respondent's position statement and non-confidential exhibits to Charging Parties or their counsel upon request and will give the Charging Party the opportunity to respond within 20 days.

- However, the EEOC will not provide Respondent with a copy of the Charging Party's intake questionnaire or rebuttal during the investigation.

Employers should carefully consider all information included in the position statement, segregate and label as “confidential” any sensitive commercial, financial or medical information used to support the position statement.
California Minimum Wage Rate

- California state minimum wage incremental increases:
  - As of January 1, 2017 = $10.50 per hour
  - January 1, 2018 = $11.00 per hour
  - Increasing thereafter by $1.00 annually until it reaches $15.00 per hour by January 1, 2022
  - Thereafter cost of living increases scheduled annually.
  - The minimum wage law includes a 1 year lag for businesses with 25 or fewer employees. (i.e., January 1, 2018 = $10.50 for small employers)

Examples of New Minimum Wage Requirements Around the State

- **San Francisco:** The minimum wage is currently $13.00 per hour.
  - It will increase to $14.00 per hour on July 1, 2017 and $15.00 per hour in July 2018.
  - Cost of living increases will follow each July thereafter.

- **San Diego:** The city-wide minimum wage increased to $11.50 per hour on January 1, 2017 and adjustments tied to Consumer Price Index on January 1, 2019 and annually thereafter.

- **Los Angeles:** Minimum wage will increase incrementally each July over 5 years for employers with 26+ employees:
  - $12.00 (July 1, 2017); $13.25 (July 2018); $14.25 (July 2019); $15.00 (July 2020); cost of living adjustments thereafter.
  - Compliance for businesses with fewer than 26 employees will begin a year later.
Minimum Salary Requirements for Exempt Employees Under CA law:
2X state minimum wage based on 40 hour workweek

- For Employers with **26 or more employees**, the mandatory minimum salary for exempt employees increases to **$43,680** as of **January 1, 2017**.

- For Employers with **25 or fewer employees**, the mandatory minimum salary for exempt employees increases to **$43,680** as of **January 1, 2018**.
Don’t forget Computer Professionals

In order to avoid paying an overtime premium, effective Jan. 1, 2017, an employer can choose to pay an exempt computer professional employee an hourly rate of at least $42.35 for every hour worked or a salary of at least $7,352.62 per month ($88,231.36 annually).

The employee’s position must meet the duties test as well as receive the required hourly rate or salary to qualify as exempt.
In 2016, the Department of Labor (“DOL”) issued new rules expanding the overtime protections under the Fair Labor Standards Act, including doubling the minimum salary requirement to qualify for the white collar exemption.

The new rule would have taken effect December 1, 2016 and would have raised the salary threshold for white collar workers from $23,660 to $47,476 per year, with automatic adjustments every 3 years.
In Nov. 2016, a District Court judge in Texas issued a nationwide preliminary injunction, blocking the DOL’s overtime expansion rule from taking effect on December 1, 2016. (Nevada et al. v. U.S. Department of Labor et al. (E.D. Texas Nov. 2016)).

- The DOL appealed the judge’s ruling to the Fifth Circuit Court of Appeals.
- The Fifth Circuit granted the DOL’s motion for expedited briefing.
- Oral arguments expected in February 2017, after President-Elect Trump is in office.

What should employers do now?
WAGE AND HOUR – WAGE STATEMENTS

No Duty to Track “Hours Worked” on Itemized Wage Statements for Exempt Employees – AB 2535

- This legislation clarifies that employers are not required to list the number of hours worked on wage statements for employees who are exempt from minimum wage and overtime under specified exemptions, including those applicable to executive employees, administrative or professional employees, outside sales employees, and salaried computer professionals.
Private Attorneys General Act – SB 836

SB 836 took effect on June 27, 2016 as part of the state budget package and made important changes to the Private Attorneys General Act (“PAGA”) in an effort to increase administrative enforcement of PAGA and reduce litigation.

- The Labor and Workforce Development Agency (“LWDA”) now has 60 days (instead of 30 days) to review PAGA notices.
- A PAGA plaintiff cannot commence a civil action until 65 days (instead of 33 days) after sending notice of the alleged violations to the LWDA and the employer.
- The LWDA has 65 days (instead of 33 days) to notify a plaintiff and employer of its intent to investigate.
- For cases filed on or after July 1, 2016, the LWDA may extend its deadline to issue citations up to 180 days.
Private Attorneys General Act – SB 836

- There is now an online procedure for employees to submit PAGA violation notices and for employers to submit initial responses or cure notices.

- Additionally, SB 836 includes a new $75 filing fee and updated guidelines on the mode of filing and serving various documents under PAGA.

- Settlement of a PAGA civil action requires court approval.

- A copy of the proposed settlement must be provided to LWDA at the same time it is submitted to the court.

- Many of these requirements apply prospectively to all pending PAGA cases as well as new filings.

- It is not clear if these amendments will increase the number of PAGA claims that are handled by the LWDA rather than between private parties in litigation.

- For more information: http://labor.ca.gov/Private_Attorneys_General_Act.htm
Ensuring wage and hour compliance is essential.

Remember CA Labor Code Section 558.1 makes owners, directors, officers, and managing agents of the employer personally liable for certain violations of the Labor Code such as any willful failure to pay wages (including minimum wage and overtime), failure to issue accurate wage statements, failure to provide rest or meal periods, or failure to indemnify for business expenses.
LEAVES OF ABSENCE

Employers to Provide Written Notice of Right to Leave for Domestic Violence, Sexual Assault, and Stalking – AB 2337

- This new law requires employers with 25 or more employees to provide employees with written notice about the rights of victims of domestic violence, sexual assault, and stalking to take protected time off for medical treatment or legal proceedings.

- A required form must be given to all new employees upon hire and to current employees upon request.

- The Labor Commissioner is required to develop a form that employers may elect to use by July 1, 2017.

- Employers are not required to comply with this notice requirement until the Labor Commissioner issues the new form.
Expansion of Paid Family Leave Benefits – AB 908

- This legislation becomes effective January 1, 2018, and will increase the level of benefits that employees receive under the Paid Family Leave and State Disability Insurance programs.

- This new law will also remove the 7 day waiting period for PFL (but not SDI) benefits.
Paid Sick Leave will be discussed in more detail in the next segment of the program.

But the California Healthy Workplaces, Healthy Families Act was amended in April 2016 to address some unanswered questions in the original statute.

- In addition, the following are a sampling of cities that have enacted Paid Sick Leave ("PSL") laws that are similar, but not identical to California’s PSL law. Employers must be sure to integrate all applicable requirements.
  - San Francisco
  - San Diego
  - Los Angeles
  - Berkeley
  - Oakland
BENEFITS – PAID LEAVE

San Francisco’s Paid Parental Leave Ordinance

- The Ordinance requires employers in San Francisco to provide up to 6 weeks of supplemental compensation to covered employees who receive state Paid Family Leave, for the purpose of bonding with a new child.

- The Ordinance will apply to employers with 50 or more employees (no matter where located) as of January 1, 2017, employers with 35 or more employees as of July 1, 2017, and employers with 20 or more employees as of January 1, 2018.
Private Retirement Savings Plans – SB 1234

- SB 1234 approves implementation of the California Secure Choice Retirement Savings Program (“CSCRSP”), which was established as a state-run retirement plan for private-sector workers.
- Specific prerequisites need to be met before the CSCRSP is open for enrollment, and it may be some time before we see this program up and running.
- Under SB 1234, employers with 5 or more employees that do not offer a specified retirement plan must put a payroll arrangement into place so that employees may contribute a portion of their salary or wages to a retirement saving program in the CSCRSP.
Restrictions on Use of Wireless Electronic Devices in Vehicles – AB 1785

- AB 1785 expands the existing hands-free law by making it illegal to hold and operate a cell phone while driving.
- If an individual has a cell phone holder attached to a car, he or she can legally swipe at the phone while driving.
- However, launching apps and surfing the web will now be outlawed.
Heat Illness Prevention Regulations for Indoor Workers – SB 1167

- Effective January 1, 2019, the new law requires the Division of Occupational Safety and Health ("Cal/OSHA") to propose standards for heat illness prevention for indoor workers, similar to those currently in place for outdoor workers.

- SB 1167 does not specify the provisions that will be included in the Cal/OSHA standards or what types of workplaces will be covered – potentially, all indoor workplaces may be covered.
Workplace Smoking and Vaping Prohibitions – SB 5 and AB 7

- These bills took effect on June 9, 2016.
- Labor Code section 6404.5 prohibits smoking of tobacco products inside an enclosed space at a place of employment.
  - SB 5 updated the definition of “smoking” under this section to include electronic and oral smoking devices.
- AB 7 specified that Section 6404.5 applies to businesses where the “owner-operator” is the only employee. AB 7 also eliminated exemptions permitting smoking in work environments such as hotel lobbies, bars, banquet rooms, warehouse facilities, and employee break rooms.
Twenty-six states and the District of Columbia currently have laws legalizing marijuana in some form.
Effective November 2016, Proposition 64 legalized the recreational use of marijuana for adults 21 years or older.

Proposition 64 does not preempt employers’ rights to maintain a drug and alcohol free work environment.

- Marijuana use is still illegal under federal law.
- Employers may continue to prohibit use, possession, and impairment at work.
- Employers may continue to test for use when appropriate.
- Pre-employment drug testing is also a lawful mechanism employers may use to maintain a drug-free workplace (even if the applicant was legally using marijuana under California’s Compassionate Use Act). Ross v. Raging Wire, 42 Cal. 4th 920 (2008). For the time being, Ross is good law.
**Limits on Choice of Law and Venue Provisions – SB 1241**

- SB 1241 prohibits an employer from requiring an employee who “primarily” resides and works in California to agree, as a condition of employment, to an employment provision that would:
  - Require the employee to adjudicate outside of California any claim arising in California; or
  - Deprive the employee of the substantive protection of California law with respect to a controversy arising in California.

- Although “primarily” is not defined, in other parts of the Labor Code, pertaining to wage and hour laws, “primarily” means more than 50% of the time.

- This law applies to contracts entered into, modified or extended on or after January 1, 2017.

- The law does not apply to employees who are represented by legal counsel during contractual negotiations.
On May 11, 2016, President Obama signed into law the Defend Trade Secrets Act of 2016 ("DTSA" or the “Act”). The DTSA amends the existing Economic Espionage Act and applies to any trade secret misappropriation that occurs on or after May 11, 2016.

The DTSA:

- Creates the first federal civil remedy for trade secret misappropriation.
- Provides a mechanism for the ex parte seizure of property from the party accused of misappropriation, but only in extraordinary circumstances.
- Provides for injunctive relief, compensatory damages, exemplary damages, and, where applicable, reasonable attorneys’ fees to the prevailing party.
FEDERAL PROTECTION OF TRADE SECRETS

- Provides certain protections for whistleblowers.
- Imposes an affirmative requirement on employers to notify their employees, which the DTSA defines as including contractors and consultants, of the Act’s whistleblower immunity provision in contracts governing the use of trade secrets or other confidential information.

The DTSA does not preempt other state laws that protect trade secrets.

☑ Action Item: Update nondisclosure/proprietary rights agreements to comply with the immunity notice requirement.
SIGNIFICANT CASE LAW DEVELOPMENTS
Jennifer Augustus, a security guard, alleged ABM failed to consistently provide uninterrupted rest periods, as required by state law.

During discovery, ABM acknowledged it did not relieve guards of all duties during rest periods. In particular, ABM required guards to keep their radios and pagers on, remain vigilant, and respond when needs arose, such as escorting tenants to parking lots, notifying building managers of mechanical problems, and responding to emergency situations.
The trial court granted the employee’s motion for summary judgement stating an on-duty or on-call break is no break at all. The court awarded plaintiffs approximately $90 million in statutory damages, interest, and penalties.

The court of appeal reversed on the ground that simply being on call does not constitute performing “work.”

The California Supreme Court disagreed and reversed the court of appeal.
The Court addressed two related issues: (1) whether employers are required to permit their employees to take off-duty rest periods, and (2) whether employers may require their employees to remain on call during rest periods.

The Court held that when construing the labor laws, courts must adopt the construction that best gives effect to the purpose of the Legislature and the IWC., and that purpose is the protection of employees and their wages, hours and working conditions.
The California Supreme Court explained its decision as follows:

- The reference to a rest period evokes, quite plainly, a period of rest. As a result, the construction of the Wage Order that best effectuates the Order’s purpose … is one that obliges employers to permit — and authorizes employees to take — off-duty rest periods—in which they are relieved of all duties, and the employer relinquishes all control over how they spend their time.

- Similarly, an employer cannot satisfy its obligation to relieve employees from duties and employer control during rest periods if employees must remain on call.
  - When on call, employees must fulfill certain duties i.e. carry a device or otherwise make arrangements to be reached, responding when called, and performing other work if the employer so requests. These obligations are irreconcilable with an employee’s freedom to use rest periods for his/her own purposes.

- **The bottom line**: State law prohibits on-duty and on-call rest periods. During required rest periods, employers must relieve their employees of all duties and relinquish any control over how employees spend their break time.
In *Rodriguez*, the defendant E.M.E. had a practice of combining two 10 minutes rest breaks into one 20 minute break. The practice was the result of a 30-year old informal agreement with the employees that remained a popular practice with employees.

Plaintiff Rodriguez filed a class action lawsuit claiming that E.M.E. was violating the California Labor Code and Wage Orders by combining rest break periods. The trial court granted summary judgement in favor of E.M.E. on the rest break issues.

The California Court of Appeal reversed the summary judgment in favor of E.M.E. finding that the applicable Wage Order obligated E.M.E. to provide a 10-minute rest break in the middle of the work periods occurring before and after the 30-minute meal break “insofar as practicable.” While E.M.E. provided evidence that providing separate rest breaks was not practicable, the court held that this was an issue of disputed fact for the jury to determine.
Plaintiff filed a class action lawsuit against his employer Time Warner Cable alleging that its policy and practice of rounding time was unlawful under California’s overtime law and that he had been underpaid by $15.02 over a 13-month period. Plaintiff also claimed that he was entitled to significant penalties because he had not been paid for one minute of off-the-clock work he had performed when he improperly logged into the time keeping system.

- The 9th Circuit Court of Appeals affirmed summary judgment in favor of the employer, finding that consistent with federal law, California employers may “round” time punch records, so long as the employer’s “rounding-over-time policy is neutral, both facially and as applied.”
A rounding policy is lawful as long as the policy as applied could benefit the employee or the employer depending on the circumstance. This is so even if there are some employees who over a period of time are adversely impacted by the rounding (i.e. they consistently lose minutes every day), provided the policy is neutral.

The plaintiff’s claim for one minute of off-the-clock work was de minimus and therefore noncompensable.

The bottom line: Employers using rounding practice should have a written policy and ensure that their practice is neutral in its application.
Silva challenged, by way of class action, whether two of See's Candy's policies pertaining to the calculation of employee work time violated applicable law.

- (1) a rounding policy, which calculates time clock punches to the nearest tenth of an hour; and

- (2) a grace-period policy, which permits employees to clock in 10 minutes before and after a shift, but calculates work time from the employee's scheduled start/end times.
Per See’s rounding policy, in and out punches were rounded (up or down) to the nearest tenth of an hour (every six minutes beginning with the hour mark). The time punches were thus rounded by as much as three-minutes.

- For example, if an employee clocks in at 7:58 a.m., the system rounds up the time to 8:00 a.m.
- If the employee clocks in at 8:02 a.m., the system rounds down the entry to 8:00 a.m.
- Both times are indicated on the punch card.
Per See’s grace-period policy, employees were allowed to punch into the system up to 10 minutes before their scheduled start time and 10 minutes after their scheduled end time. The grace period was voluntary, and offered to provide flexibility in the manner and times that workers clock in and out of the shifts.

- See's Candy's rules prohibit employees from working during the grace period.
- If an employee was asked to work during this time, the manager was required to make a timekeeping adjustment to ensure the employee was paid for that work.
The court of appeal adopted the federal standard and the rule used by California's regulatory agency, and held an employer is entitled to use a rounding policy if the policy "is fair and neutral on its face" and "is used in such a manner that it will not result, over a period of time, in failure to compensate the employees properly for all the time they have actually worked."

Further, because See's policy prohibited employees from working during the grace period, the grace-period policy was viewed as a method of accurately counting each employee's actual work time.

The bottom line: If you use a grace period, prohibit employees from working during the grace period, and again make sure any rounding practice is fair and applied in a manner that is neutrally over time.
Under 29 U.S.C. § 203(m), an employer may fulfill part of its hourly minimum wage obligation to a tipped employee with the employee’s tips by taking a tip credit. Employers who take a tip credit are obligated to (1) give notice to their employees, and (2) allow their employees to retain all the tips they receive, unless such employees participate in a valid tip pool and the tip pool is valid if it is comprised exclusively of employees who are “customarily and regularly” tipped.

In 2010, the 9th Circuit Court of Appeals held in Cumbie v. Woody Woo, Inc., that defendant’s tip pooling arrangement, comprised of both customarily tipped employees and non-customarily tipped employees, did not violate section 203(m) of the FLSA because defendant did not take a tip credit and section 203(m) was silent as to employers who do not take a tip credit.

In 2011, the Department of Labor promulgated a formal rule that extended the tip pool restrictions of section 203(m) to all employers, not just to those who take a tip credit.
In *Oregon Restaurant & Lodging*, the 9th Circuit Court of Appeals reversed the decisions of two federal district courts that held the DOL was prohibited from expanding the FLSA tip pooling requirements to employers who did not take tip credits to satisfy their minimum wage requirements.

The 9th Circuit Court of Appeals disagreed with the district courts’ reasoning, finding that because section 203(m) is silent as to the tip pooling practices of employers who do not take a tip credit, there was no convincing evidence that Congress’s silence meant “anything other than a refusal to tie the agency’s hands” and that the DOL was free to expand the tip pooling requirements of the FLSA.

**The bottom line:** FLSA tip pooling requirements apply to all employers using a tip pooling practice whether or not the employer is taking a tip credit for purposes of satisfying its minimum wage obligations.
The plaintiff sued the City of Petaluma for hostile work environment and discrimination based on her gender, retaliation, and failure to prevent harassment during her tenure as a City firefighter. The City Attorney retained an outside attorney investigator to investigate the plaintiff’s claims. Over the City’s objections, the trial court granted the plaintiff’s motion to compel documents and testimony relating to the investigation, including the investigative report.

The Court of Appeal held that fact finding conducted by outside counsel was a legal service and entitled to attorney-client privilege and work product protection, even if the attorney did not provide legal advice.
The City of San Gabriel provided a “Flexible Benefits Plan” under which a designated monetary amount was furnished to employees for health benefits. Employees could decline purchase of benefits upon proof of alternate medical coverage. Employees who declined benefits received the designated monetary amount as a cash payment (“cash in lieu”) in a separate line item in their paychecks.

The primary issue in *Flores* was whether the FLSA required the City of San Gabriel to include cash payments made in lieu of health benefits into its regular rate calculations for overtime pay purposes.
The Ninth Circuit Court of Appeals held that employers must include such payment in the calculation of the employee’s regular rate.

The bottom line: If you provide cash payments to employees who opt-out of a health insurance plan, ensure the amounts are included in employees’ regular hourly rate.
In Soto, the plaintiff employee filed a PAGA action alleging that her employer Motel 6 had violated California Labor Code 226(a) by failing to include the monetary value of her accrued vacation on her itemized wage statements.

The California Court of Appeal disagreed and held employers are not required to list the monetary value of accrued vacation on the earnings statement, because accrued vacation does not become a “quantifiable wage” until separation of employment. The court found that accrued vacation is only an obligation to provide paid time off until the obligation is converted to a wage upon termination.
ON THE HORIZON: HOW MIGHT THE NEW ADMINISTRATION IMPACT CALIFORNIA EMPLOYERS
Appointments to the Supreme Court of the United States

- Numerous workplace law issues could come before the Supreme Court over the next 4 years.
- Still significant vacancies (100+) to fill in the lower courts.
Key Appointments to Federal Agencies will influence agenda and focus:

- Secretary of Labor
- National Labor Relations Board
- Equal Employment Opportunity Commission
- Homeland Security
BENEFITS

- Future of Obamacare
- Has appointed Georgia Congressman Tom Price, a vocal critic of Obamacare, as the new head of Dept. of Health and Human Services
- The President-elect’s family leave plan offers 6 weeks of paid maternity leave, but it is unclear whether this will apply to both mothers and fathers.
It's important that policies and procedures stay up to date—carefully review and update employee handbooks based on new enforcement guidance, case law developments, and trends:

- Include updated harassment policy
- Address new rules on cell phone use while driving.
- Address paid sick leave, and make sure to comply with state and applicable local laws, particularly if you operate facilities in multiple locations
- Prepare for expanded Paid Family Leave
- Ensure rest breaks are duty free
Employers must comply with federal, state and local wage and hour laws.

- For California employers with 26 or more employees, the mandatory minimum salary for exempt employees under state law increases to $43,680 as of January 1, 2017. For California employers with 25 or fewer employees, the mandatory minimum salary increases to $43,680 as of January 1, 2018.

- California employers must also increase the minimum hourly pay to ensure compliance with California and any applicable local minimum wage laws.

- Review compensation for parity.

- Make sure to include required compensation in regular rate calculations.
WRAP UP – SUMMARY OF ACTION ITEMS

✓ Make sure you are using the most up to date notices, postings and handouts from the Department of Fair Employment and Housing and Department of Industrial Relations.

✓ Post all gender bathroom signage.

✓ Use the updated Form I-9

✓ Keep up with changes in the law and regulations, and conduct regular wage and hour and employment compliance reviews.

✓ Provide training to supervisors and managers regarding the new laws to ensure the company’s practices are legally compliant.