

### WHAT'S NEWS!

#### "All-in-1" Poster for 2014!

**You** should have received your 2014 California & Federal "All-in-1" Poster by mail.

*Extra copies are available at our office.*

**REMEMBER**, You're not done when you get the "All-in-1" Poster up. You still need to fill out the Workers' Comp information panel and then make sure you have posted the Industrial Welfare Commission's (IWC) order for your business. Check out the *Find Your Wage Order* box in the center of the poster for details on your firm's wage order.

#### Earned Income Tax Credit

**The Annual Federal Earned Income Tax Credit Notification (EITC) season is upon us.** Employers are required to notify their employees about the availability of the EITC.

Written notification must be provided to employees in person or by mail. Notification must be provided within one week before or after, or at the same time, that you provide an annual wage summary, including, a Form W-2 or a Form 1099. [PE]

#### GHS HAZ COM IS HERE!

**E**mployers with haz com programs must now show that they have trained employees to understand the new Globally Harmonized System (GHS) of chemical labels, pictograms and Safety Data Sheets (SDS).



Acutely toxic

This is true if you are an employer that uses handles or stores chemicals that subject you to Cal/OSHA Hazard Communication Standard.

So if your workplace includes hazardous chemical warning labels or Material Safety Data Sheets (MSDS), your training, which must be done annually, must now include:

- Standardized content of formatting of Safety Data Sheets (SDS);
- Changes to the hazard categories of hazardous chemicals;
- Hazardous chemical label elements;
- New **pictograms**, new and different **signal words**, **hazard statements** and **precautionary statements**.

Pacific Employers is working to provide the availability of training for your employees on what is different with this new GHS rule.

We can get your **Safety Program** up to date as well as help in employee training in the **new Globally Harmonized System (GHS)**. [PE]

### Cal/OSHA's Form 300 Enclosed!

#### President's Report ~Dave Miller~

#### 50 YEARS? - CAN'T BE!

**I**t may seem like only yesterday, (to some of us) but it has now been 50 years since the founding of the organization that now bears the name Pacific Employers!

The new 50th Anniversary logo that most of our printed material is sporting shows how proud we are to have survived a very tough environment for our type of firm.

As we celebrate this 50th year, our commitment to helping employers is stronger than ever. As President, and part of the company for 47 years, I have had an opportunity to see the growth and changes the years have brought. We will continue to make it possible for California business owners to find the help they need via our different resources. From one-on-one free and confidential consultation, to group seminars or workshops, to the many business resources available on our website, newsletter and in person at our office.

*The past 50 years have been beneficial to Pacific Employers and it is our desire that the quality of the service we continue to provide our clients will be as unique and exceptional as may be required by their needs.* [PE]



#### Form 300 Rules

**C**alifornia employers in high hazard industries with 10 or more employees are required to comply with Cal/OSHA's enclosed Form 300 recordkeeping standard.

The Form 300 is available on our website forms page in the California Government section at the top of the list and includes the form, instructions and the Summary:

<http://www.pacificemployers.com/forms.htm>

High hazard employers are required to complete both OSHA Form 300 Log of Work-Related Injuries and Illnesses and OSHA Form 300-A Summary of Work-Related Injuries and Illnesses, however, only the latter, the Form 300-A, is required to be posted in the workplace.

The reason you post only the Summary is that it does not have the privacy related data of the Form 300. You must post the Summary only, not the Log, by February 1<sup>st</sup> of the year following the year covered by the form and keep it posted until April 30<sup>th</sup> of that year. [PE]

We hang petty thieves and appoint the great thieves to public office.  
Aesop, Greek slave & fable author

# Pacific Employers

## Recent Developments

### 2014 - NEW LAWS! - 2014

**C**alifornia's Labor laws are highly complex, ever changing and impact California employers effective January 1, 2014. These new laws include:

#### MINIMUM WAGE

AB 10 raises California's current minimum wage of \$8 per hour by two, one-dollar increments: to \$9 per hour effective July 1, 2014, and to \$10 per hour effective January 1, 2016.

#### DOMESTIC WORK EMPLOYEES

AB 241 enacts the Domestic Worker Bill of Rights, which provides for specific overtime pay for certain in-home employees; a "domestic work employee who is a personal attendant." Those with in-home help will need to carefully determine whether the new law applies to them because AB 241 contains many specific definitions and exclusions.

California's rules take effect on January 1, 2014. The U.S. Department of Labor also issued new rules on personal attendants that take effect on January 1, 2015.

#### MEAL AND REST PERIODS – HEAT ILLNESS RECOVERY PERIODS

SB 435 expands meal and rest break prohibitions to "recovery" periods taken to prevent heat illness. Under SB 435, an employer cannot require an employee to work during a recovery period mandated by state law under Cal/OSHA's heat illness standard.

An employer that does not provide an employee with a recovery period must pay the same premium penalty that exists for unprovided meal or rest breaks — one additional hour of pay for each workday that the meal, rest or recovery period is not provided.

Employers with outdoor places of employment are subject to Cal/OSHA's heat illness standard, which allows for cool-down periods in the shade of no less than five minutes at a time on an "as-needed" basis for employees to protect themselves from overheating.

#### DAMAGES FOR MINIMUM WAGE VIOLATIONS

AB 442 expands the penalty available for citations issued by the Labor Commissioner for failing to pay minimum wage to include a requirement that the employer pay liquidated damages to the employee, in addition to existing penalties.

#### PROTECTIONS FOR EXERCISING RIGHTS UNDER LABOR CODE

AB 263 amends Labor Code Section 98.6, which protects employees who assert their rights under the Labor Code; for example, by complaining of wage theft. AB 263 prohibits retaliation or adverse action against employees for exercising their rights under the Labor Code (current law only explicitly prohibits discharge and discrimination).

AB 263 also expands protected conduct under Labor Code Section 98.6 to specifically include a written or oral complaint by an employee that he/she is owed unpaid wages.

Critically, AB 263 adds a civil penalty of up to \$10,000 per employee per violation.

#### LABOR COMMISSIONER LIEN ON PROPERTY FOR EMPLOYEE COMPLAINTS

AB 1386 requires that the amount due under a Labor Commissioner order, decision or award that has become final shall create a lien that the Labor Commissioner may record on the employer's real property.

#### ATTORNEYS' FEES – PREVAILING PARTY WAGE CLAIMS

SB 462 states that employers who win wage-claim lawsuits may recover attorneys' fees and costs from the employee only if a trial court finds that the employee filed the lawsuit in bad faith.

#### EMPLOYEE WAGE WITHHOLDINGS – CRIMINAL PENALTY

SB 390 creates a criminal penalty for an employer that fails to remit withholdings from an employee's wages that were made pursuant to

state, local or federal law.

#### GARMENT MANUFACTURER REQUIREMENTS

AB 1384 creates a civil penalty for a garment manufacturer's failure to display his/her name, address and registration number at the front entrance of the premises.

#### CAR WASH INDUSTRY

AB 1387 increases the bond requirement for employers in the car wash industry from \$15,000 to \$150,000, but exempts an employer from the bond requirement if the employer has a collective bargaining agreement in place that meets specified criteria.

#### FARM LABOR CONTRACTORS – SUCCESSOR LIABILITY

SB 168 makes a successor farm labor contractor liable for wages or penalties owed by a predecessor farm labor contractor under certain specified circumstances.

#### PREVAILING WAGES

A number of bills signed this year relate to prevailing wages. Employers that provide services or construction work for the government or public entities must pay the prevailing wage, which usually is significantly higher than the minimum wage.

The bills include AB 1336, SB 7, SB 54, SB 377 and SB 776. One notable bill (SB 54) expands payment of prevailing wages to privately financed refinery construction projects.

#### DISCRIMINATION AND RETALIATION PROTECTIONS

Several new laws will expand employee protections for 2014.

#### PROTECTION FOR MILITARY AND VETERANS

AB 556 adds "military and veteran status" to the list of categories protected from employment discrimination under the Fair Employment and Housing Act.

#### SEXUAL HARASSMENT DEFINITION CLARIFIED

SB 292 amends the definition of harassment to clarify that sexually harassing conduct does not need to be motivated by sexual desire. The new law clarifies that hostile treatment can amount to unlawful sexual harassment regardless of whether the treatment was motivated by any sexual desire.

#### WHISTLEBLOWER PROTECTIONS

SB 496 expands whistleblower protections to include reports alleging a violation of a local rule or regulation. It also protects employees who disclose, or may disclose, information regarding alleged violations "to a person with authority over the employee or another employee who has authority to investigate, discover or correct the violation."

Finally, SB 496 prohibits retaliation against an employee because the employer "believes the employee disclosed or may disclose information."

#### LABOR LAW BEGINS SEMINAR SERIES

Legislative and Regulatory Changes and Important Court Decisions during this last year made significant changes for employers. Our **Labor Law Update Seminar** provides you with information you need to know to prepare for this coming year. **On Thursday, January 16th, from 10 am till 11:30 am**, we will be presenting the first of our 2014 monthly seminars **at the Tulare-Kings Builders Exchange** at 1223 S. Lover's Lane at Tulare Avenue, Visalia, CA.

*RSVP to Pacific Employers at 733-4256. [PE]*



**Dinner for 2 at the *Vintage Press!***  
***That's right!*** When a business that you recommend joins Pacific Employers, we treat you to dinner for two at the *Vintage Press*.  
Call 733-4256 or 1-800-331-2592.



## Human Resources Question with Candice Weaver

### THE MONTH'S BEST QUESTION

#### Time to Update Your Employee Handbook

**Q:** "It has been several years since we have updated our handbook. Are there many changes in the law that require an update?"

**A:** Yes, if you have not updated in this last year, you will find many areas that need to be updated.

This last year had only a few items that truly require change, but the accumulation of changes over these last three years are really staggering. One simple change from this year is AB 1083 which mandates a 60 day start time for health plans.

Under the Affordable Care Act, employers required to provide health insurance coverage do so within a maximum of 90 days. However, under AB 1083, California employers with fully insured plans (as opposed to self-insured plans) must provide health insurance coverage within a maximum of 60 days, not 90 days.

If your handbook provides for an Introductory Period of 90 days (as many do), and provides benefits at the successful conclusion of that Introductory Period, then that provision must be updated.

This leaves employers in a bit of a quandary: Does it make sense to provide medical benefits at 60 days, but other benefits (such as paid holidays, vacation, or PTO) at 90 days? Or should employers change the Introductory Period and all related benefits to 60 days?

Also, keep in mind if you extend the Introductory Period due to poor performance, you still cannot postpone the availability of health benefits without facing serious penalties.

#### Other areas that need changing for this year include:

Add the word "stalking" to protections for domestic violence victims.

Expand the protections for victims of serious crimes.

Make sure that the harassment policy prohibits harassment that is broader than just sexual harassment, and includes examples of prohibited conduct not based on sexual desire.

Add "military or veteran status" to the list of protected categories in your EEO policy.

At the beginning of last year, the number of updates needed for existing handbooks totaled 16. Add this year's rather simple changes and you can see how out of date your handbook may have become.

All the more reason to thoughtfully revisit your handbook now to be ready January 2014!. [PE]

### Sexual Harassment Prevention Training

Visalia Chamber of Commerce and Pacific Employers, will jointly host a state mandated Supervisors' Sexual Harassment Prevention Training Seminar & Workshop with a continental breakfast on January 22<sup>nd</sup>, registration at 7:30am Seminar 8:00 to 10:00am, at the Lamp Liter, Visalia.

RSVP Visalia Chamber - 734-5876

PE & Chamber Members \$35 - Non-members \$50

Certificate - Forms - Guides - Full Breakfast

Future 2014 Training dates: 4-23-14, 7-23-14, 10-22-14

### No-Cost Employment Seminars

The Tulare-Kings Builders Exchange and Pacific Employers host this Seminar Series at the Builders Exchange at 1223 S. Lover's Lane at Tulare Avenue, Visalia, CA. RSVP to Pacific Employers at 733-4256.

These mid-morning seminars include refreshments and handouts.

#### 2014 Topic Schedule

◆ **Labor Law Update** - The courts and legislature are constantly "Changing the Rules" - Learn about the recent changes to both the California and U.S. laws that affect employers of all types and sizes.

Thursday, January 16<sup>th</sup>, 2014, 10 - 11:30am

◆ **Employee Policies** - Every employer needs guidelines and rules. We examine planning considerations, what rules to establish and what to omit. [Note this is the 4th Thursday]

Thursday, February 27<sup>th</sup>, 2014, 10 - 11:30am

◆ **Equal Employment Fundamentals** - Harassment & Discrimination in the Workplace - The seven (7) requirements that must be met by all employers. "The Protected Classes."

Thursday, March 20<sup>th</sup>, 2014, 10 - 11:30am

◆ **Safety Programs** - Understanding Cal/OSHA's Written Safety Program. Reviewing the IIPP or SB 198 requirements for your business.

Thursday, April 17<sup>th</sup>, 2014, 10 - 11:30am

◆ **Family Leave** - Federal & California Family Medical Leave, California's Pregnancy Leave, Disability Leave, Sick Leave, Workers' Compensation, etc.; Making sense of them.

Thursday, May 15<sup>th</sup>, 2014, 10 - 11:30am

◆ **Wage & Hour and Exempt Status** - Overtime, wage considerations and exemptions.

Thursday, June 19<sup>th</sup>, 2014, 10 - 11:30am

◆ **Hiring & Maintaining "At-Will"** - Planning to hire? Putting to work? We discuss maintaining "At-Will" to protect you from the "For-Cause" Trap!

Thursday, July 17<sup>th</sup>, 2014, 10 - 11:30am

#### There is No Seminar in August

◆ **Forms & Posters** - as well as Contracts, Signs, Handouts, Fliers - Just what paperwork does an Employer need?

Thursday, September 18<sup>th</sup>, 2014, 10 - 11:30am

◆ **Guest Speaker Seminar** - Annually we bring you a speaker for a timely discussion of labor relations, HR and safety issues of interest to the employer.

Thursday, October 16<sup>th</sup>, 2014, 10 - 11:30am

◆ **Discipline & Termination** - The steps to take before termination. Managing a progressive correction, punishment and termination program.

Thursday, November 20<sup>th</sup>, 2014, 10 - 11:30am

#### There is No Seminar in December

Pacific Employers  
306 North Willis Street  
Visalia, CA 93291  
559 733-4256  
(800) 331-2592  
Fax 559 733-8953  
www.pacificemployers.com  
email - peinfo@pacificemployers.com



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### Over One Million Dollars in Unpaid Wages

**The Alameda County District Attorney has charged Ji Li Zheng, the owner of the Century Buffet in Oakland's Fruitvale District, with 16 felony and misdemeanor counts** alleging payroll tax fraud, workers' compensation fraud, failure to pay the State-mandated minimum wage and overtime premium, and dissuading a witness.

An investigation revealed that Zheng allegedly falsified the restaurant's paperwork, including its audits, log sheets, time sheets and payroll journals. Zheng allegedly reported that six to 12 employees worked at the restaurant, with total wages reported between \$25,000 to \$45,000 per quarter.

However, allegedly there were 60 employees working at the buffet from 2010 until the investigation began. Workers also alleged that they worked 12 to 13 hour shifts six days a week without rest or meal breaks. Most employees claimed they received monthly cash payments directly from Zheng.

Others stated that their only wages came from customer tips or they were never paid at all. An audit by DLSE revealed the total unpaid minimum wage to all employees totaled more than \$520,000 and the total unpaid overtime was more than \$550,000 for that same time period, in addition to over \$191,000 as premium pay for no meal and rest periods provided. [PE]

### 2014 Mileage Reimbursement Rates

**The IRS just announced its standard mileage rates for 2014.** The new rates will be a slight decrease – a half cent – from the 2013 rates for business, medical and moving expenses.

Effective January 1, 2014, the standard mileage rates for the use of a vehicle such as a car, van, SUV or pickup will be:

- 56 cents per mile for business miles driven
- 23.5 cents per mile driven for medical or moving purposes
- 14 cents per mile driven in service of charitable organizations

Small business owners, employees, self-employed individuals and other taxpayers can use the standard mileage rate to calculate their tax-deductible costs for using a vehicle for business, charitable, medical or moving purposes. [PE]

### Court Finds For Promised Retirement Bonus

Plaintiffs worked for West Coast Quartz Corporation (West Coast). Defendants were the owners of West Coast and were preparing to sell the company. Allegedly, they promised plaintiffs that if they continued to work for West Coast until the sale, they would be paid a bonus from the sale proceeds that would be sufficient for them to retire.

Plaintiffs remained at West Coast for five years, rejecting job offers from other companies, and opportunities to move out of the area. When defendants sold West Coast for approximately \$30 million, the court found that they did not pay the promised bonus. [PE]

### \$302,000 to Resolve Whistleblower Lawsuit

**Under terms of a consent judgment, a now defunct North Canton, Ohio-based company, Star Air Inc., and owner Robert R. Custer, will pay two Ohio truck drivers \$302,000 to resolve a lawsuit filed by the U.S. Department of Labor (DOL) for allegedly terminating two of the company's drivers in violation of the 1982 Surface Transportation Assistance Act's whistleblower provisions.**

The drivers were terminated after one was stopped by West Virginia State Police and cited for: hauling an excess load without a commercial driver's license, operating an overweight trailer and driving without a logbook. The commercial vehicle also did not have the name of the company, its home base or its U.S. Department of Transportation number displayed. The driver who was cited informed another driver, who was also operating without the proper information displayed, and they refused to continue driving until these issues were resolved. Both were allegedly terminated as a result and subsequently filed complaints with the Occupational Safety and Health Administration (OSHA) alleging that Star Air had retaliated against them for their complaint. [PE]