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Management-Side Labor and Employment Law

MEMORANDUM

TO: Unlimited Phone Consultation Clients

FROM: Richard H. Wessels

RE: What types of calls do we get from our phone clients?

For whatever reason, last week I was inundated with calls from our \$75 monthly unlimited phone consultation clients. Of course, we do not regard this as a burden at all. Indeed, we actually enjoy handling all these calls. It gives us an opportunity to not only to be of great service to our clients, but also to stay close to them. We feel that it is important that we know and understand the business of each of our clients.

In any event, I have reflected a bit about our program and the type of calls we receive. I thought it might be interesting if I were to “laundry list” my perception of the most common calls. While this is totally unscientific, I cross-checked with others within our law firm who also handle a large volume of phone client calls. There is a consensus that this list is reflective of what is actually happening. Accordingly, here is my “Top 12” list of most frequent types of questions.

1. “The Problem Employee” — This is by far the most frequent type of call. Generally calls involve an unsatisfactory employee whom the company is considering terminating.
2. Workers’ Comp Issues — Most frequently this brings into play a common scenario where there have been doctor’s notes, conflicting views regarding return to work and/or light duty, along with potential FMLA and ADA issues.
3. Overtime — A common question here raises issues of “salary basis of pay” and whether or not particular individuals are properly classified as overtime exempt.
4. Narrow Focus Laws — Employers continue to be confused by the narrow focus laws. The most troublesome areas for our clients seem to be FMLA, COBRA, and ADA. Also on the list is the Fair Credit Reporting Act which impacts background checks and, of course, the Affordable Care Act.
5. Wage Deduction Issues — Employers are frequently confused with the myriad of wage deduction cases including garnishments, wage assignments, child support orders, tax levies, etc.

6. “Harassment” Issues — This involves classic sex harassment investigations, but in a large number of these cases issues are raised of harassment which, in reality, does not involve prohibited harassment, but is more accurately characterized as “workplace drama.” New focus on bullying is a major concern.
7. Unemployment Issues — Most often phone client calls here involve counseling as to what the correct response should be to the state unemployment office following an unemployment claim.
8. Unfair Competition Issues — A frequent scenario involves a departing employee who is not under a non-compete agreement, but has made off with sensitive company information, and has now embarked upon a campaign of contacting customers on behalf of a new employer.
9. Immigration Law —Frequent questions here involve Social Security “no-match” letters and I-9 issues.
10. Reductions in Force — We regularly get questions about how to properly structure a re-organization/reduction in force with minimum exposure to legal challenge.
11. Company Policy Interpretation — Companies have broad discretion in establishing company policy and in interpreting company policy but questions routinely come up about the best approach.
12. Union Free Issues — Common concerns here are company decisions that could trigger union organizing. With the new NLRB ambush election procedures, union organizing is on the rise.

An added note — we have “Nutshell” commentaries on all these issues which we often send to clients after we speak. If you would like a “Nutshell” commentary on any of these subjects, let me know. Contact me at (630) 377-1554 or riwessels@wesselssherman.com.