

# EMPLOYMENT LAW

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Labor & Employment Law

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## THE 411 ON EEO-1: THE CURRENT STATE OF AFFAIRS IN THE WAKE OF THE STAYED PAY DATA REQUIREMENTS

by *T. Scott Kelly (Birmingham)*, *Kiosha H. Dickey (Columbia)*, and *KyraAnne Gates (Torrance)*

On August 29, 2017, the U.S. Equal Employment Opportunity Commission's Acting Chair, [Victoria Lipnic](#), issued a statement that the agency is [staying the new pay data collection requirements](#) for the EEO-1 report.

The pay data obligations were announced on September 29, 2016, and would have required private employers, including federal contractors, with 100 or more employees to collect and submit pay data and total hours worked information. Specifically, employers would have been required to report "the *total number* of full and part-time employees they had during that year in each of 12 pay bands listed for each EEO-1 job category" and "the number of hours worked that year by all employees accounted for in each pay band."

Employer opposition to the new pay data requirements was forceful. In early 2017, a group of employer associations asked the Office of Management and Budget (OMB) to [reconsider approval of the changes to the EEO-1 report](#). Later, at the 2017 Industry Liaison Group National Conference, which was held in early August, Lipnic reiterated her stance against the new requirements and stated that employers would receive clarification on the status of the new requirements by the end of the month. The OMB and Lipnic followed through, announcing the stay at the end of August.

Though employers are breathing a collective sigh of relief, they still have substantial EEO-1 obligations with which to contend. Covered employers will need to submit the EEO-1 report that was in effect before the new pay data obligations were incorporated—also known as Component 1—by the previously set filing deadline of March 31, 2018. This version of the EEO-1 report collects race, ethnicity, and gender data by occupational category.

The OMB's action to stay the new pay data collection requirements does not completely rescind the revised EEO-1 report, and the stay may be lifted in the future. Therefore, employers may want to take this opportunity to do the following:

- examine appropriateness of EEO-1 category assignments;
- prioritize efforts to ensure data integrity;
- document and understand pay decisions;
- determine the accuracy of written pay policies, processes, and procedures;
- train decision-makers; and
- conduct periodic pay analyses to identify pay disparities.

## IN THIS ISSUE

- P2** **D.C. DOWNLOAD**  
Key Issues From Capitol Hill
- P3** **ROUNDUP**  
State & International Hot Topics
- P4** **Q&A**  
Traditional Performance Appraisals
- P5** **SPECIAL FEATURE**  
Domestic Violence
- P6** **TOP 10**  
Seasonal Hiring
- P7** **SPOTLIGHT ON**  
Sacramento Office

## OGLETREE DEAKINS' UPCOMING NATIONAL SEMINARS

We hope you can join us for our upcoming national seminars covering cutting-edge labor and employment law topics. Our remaining 2017 programs include:

- [Workplace Safety Symposium](#), October 25-27, 2017 in Dallas, Texas
- [Corporate Labor and Employment Counsel Exclusive](#), November 8-11, 2017 in Boca Raton, Florida
- [Not Your Father's Labor Environment: The New Horizon](#), December 7-8, 2017 in Las Vegas, Nevada



Boca Raton Resort & Club, Florida

## D.C. DOWNLOAD

### AN INSIDE LOOK AT KEY ISSUES FROM CAPITOL HILL

by [James J. Plunkett](#) (Washington, D.C.) and [Harold P. Coxson](#) (Washington, D.C.)

Jim Plunkett and Hal Coxson are Co-Chairs of Ogletree Deakins' Governmental Affairs Practice Group and Principals in Ogletree Governmental Affairs, Inc. (OGA), a subsidiary of Ogletree Deakins that assists clients in addressing regulatory and legislative changes emanating from Washington, D.C.



#### Healthcare

Congressional efforts to pass healthcare legislation failed in late July when Republicans could not muster the necessary votes on a variety of proposals addressing the Affordable Care Act. Nevertheless, Republican members in both the Senate and House have promised to address specific outstanding healthcare issues upon their return from recess in September.

#### DOL Begins OT Rulemaking

On July 26, 2017, the U.S. Department of Labor (DOL) [published its Request for Information \(RFI\)](#) relating to the overtime rule. In soliciting input from the public on the overtime rule, the RFI poses 11 specific questions on various issues. Additionally, on August 31, 2017, [the U.S. District Court for the Eastern District of Texas issued a final decision](#) invalidating the 2016 changes to the overtime regulations. With the litigation effectively over, the DOL will now focus on the RFI, which will likely result in the promulgation of a new overtime rule.

#### NLRB Nomination News

On August 10, 2017, [Marvin Kaplan was sworn in](#) as a member of the National Labor Relations Board (NLRB), bringing the NLRB to an even 2-to-2 Democrat-to-Republican split. That same week, NLRB Chair Philip Miscimarra notified the White House of his intention to leave the NLRB when his term expires in December, rather than seek reappointment to a second term. A Senate vote on President Trump's other NLRB nominee, William Emanuel, has yet to be scheduled. On September 15, 2017, President Trump nominated Peter Robb as General Counsel of the NLRB. If confirmed, Robb will succeed current General Counsel Richard Griffin, whose term will expire on October 31.

#### Regulatory Agenda

On July 20, 2017, the administration issued its first Regulatory Agenda, which sets forth a road map and timeline of the administration's intentions in the regulatory arena. Look for proposals addressing the DOL Wage and Hour Division's [tip pooling](#) restrictions and the Occupational Safety and Health Administration's [injury and illness reporting requirements](#) to arrive sometime this fall. However, proposed regulations implementing the administration's [apprenticeship initiative](#) will likely have to wait until 2018.

#### Persuader Rulemaking

The [comment period](#) regarding the DOL's proposal to rescind the 2016 persuader rule closed on August 11, 2017. The 2016 interpretation, which would have subjected employers' interactions with labor lawyers and consultants to potential disclosure, was permanently enjoined by a federal court late last year.

#### H-1B Petitions on Fast Track

On July 24, 2017, the U.S. Citizenship and Immigration Services (USCIS) [announced](#) that it would restart premium processing of certain cap-exempt H-1B visa petitions. Colleges and universities, nonprofit organizations that are affiliated with a college or university, and nonprofit research organizations are now eligible for fast-track processing. As for all other H-1B petitions, USCIS promises to "make additional announcements with specific details related to when we will begin accepting premium processing for those petitions."

#### Proposed Changes to Forms for H-1B Workers

On August 3, 2017, the DOL's Employment and Training Administration published its proposed changes to the Labor Condition Application for Nonimmigrant Workers pertaining to H-1B workers. While the proposed changes to the form are intended to provide clarity to the regulated community, they also propose to collect additional information from employers, such as the name and location of their clients or secondary employer. Initial comments are due to the DOL on October 2, 2017.

#### New EEOC Nominee

On August 2, 2017, President Trump nominated Daniel M. Gade of North Dakota to the EEOC for a term that will expire on July 1, 2021. Gade is a graduate of the United States Military Academy and holds an M.P.A. and Ph.D. in public administration and policy from the University of Georgia. A Senate hearing on Gade's nomination was held on September 19, but a confirmation vote has yet to be scheduled.

# STATE AND INTERNATIONAL ROUNDUP

## California



The California Division of Labor Standards Enforcement recently published a [new form](#) that must be added to the growing list of documents that employers are required to provide to employees at the time of hire. The new form refers to employees' rights under California Labor Code Section 230.1 relating to protections of employees who are victims of domestic violence, sexual assault, and/or stalking. The law requires employers to provide the notice "to new employees upon hire and to other employees upon request."

## France



As President Emmanuel Macron had promised, major employment reforms are under way in France and [the related ordinances were published on August 31, 2017](#), after extensive negotiations with national unions, concerning the following issues: capping damages awarded by employment tribunals in unfair dismissal cases; mandatory dismissal indemnities; negotiating collective agreements; and merger of workers' electoral bodies (among others).

## Massachusetts



[Governor Charlie Baker recently signed into law the Massachusetts Pregnant Workers Fairness Act](#), requiring employers to provide pregnant women and new mothers with "reasonable accommodations" for their pregnancies and any conditions related to their pregnancies. The Act, which takes effect on April 1, 2018, also provides pregnant women and new mothers with increased legal protection against discrimination in the workplace.

## New Jersey



The [Superior Court of New Jersey, Appellate Division, recently invalidated a regulation](#) of the New Jersey Unemployment Compensation Act that attempted to define, for the first time in codified form, "simple misconduct" by an employee that can limit his or her eligibility for benefits. The Appellate Division found that the regulation's definition "confusingly mixes in concepts of 'negligence' with intent-based concepts such as 'willful disregard.'" The Appellate Division, however, issued a stay of its decision for a 180-day period.

## Canada



The Ontario government is proceeding full steam ahead with [its plans to push through some significant changes to the province's labour and employment legislative framework](#). The government introduced Bill 148 (Fair Workplaces, Better Jobs Act, 2017) in June of this year, speedily moving it through first reading and passing it on to a legislative committee for further consideration. One key amendment increases the maximum length of parental leave by up to 26 weeks, adding up to 6 additional weeks of leave after the loss of a pregnancy.

## Illinois



A [recent amendment \(Public Act 100-0100\)](#) to the Illinois Human Rights Act makes clear that employers in Illinois may have dress codes or grooming policies for the purposes of maintaining workplace safety or food sanitation. The law also specifies that an employer must reasonably accommodate an employee's or applicant's "sincerely held religious belief, practice, or observance," including "the wearing of any attire, clothing, or facial hair in accordance with the requirements of his or her religion."

## Missouri



Earlier this year, Governor Eric Greitens signed Senate Bill 19, making Missouri our nation's 28th right-to-work state. SB 19 was scheduled to take effect on August 28, 2017. The unions, fearing significant revenue losses, mounted petition drives to reverse the actions of the legislature and governor. On August 18, Missouri Secretary of State Jay Ashcroft's office reported that the unions filed a referendum intended to submit approval of the statute to voters in November 2018. Meanwhile, attempts to submit state constitutional amendments to the voters appear to remain ongoing.

## New York



The New York State Department of Taxation and Finance (DTF) recently released [guidance on the tax implications of benefits and contributions](#) under the New York State Paid Family Leave Law (PFL). Specifically, after consulting with the IRS and other resources, the DTF has directed that employee contributions will be deducted from employees' *after-tax* wages, and that employers should report such contributions on Forms W-2 using Box 14. The PFL is scheduled to go into effect on January 1, 2018.

## Connecticut



The [Connecticut Supreme Court's recent holding in a wage and hour case](#) is a mixed bag for employers. While the court held that Connecticut law does not generally prohibit an employer's use of the fluctuating workweek method to calculate a non-exempt employee's hourly overtime rate, it also held that a Connecticut Department of Labor wage order does prohibit its use in connection with mercantile employees, which includes retail employees. *Williams v. General Nutrition Centers, Inc.*, No. SC 19829 (August 17, 2017).

## Kentucky



On August 24, 2017, the [Supreme Court of Kentucky issued its long-awaited decision in \*McCann v. The Sullivan University System, Inc.\*](#) The state's highest court surprised many by overruling the Court of Appeals decision below and opening the door to class actions in Kentucky state courts for alleged violations of Kentucky's wage and hour statute. *McCann v. The Sullivan University System, Inc.*, No. 2015-SC-000144-DG (2017).

## Nevada



The Nevada Equal Rights Commission recently published its official notice for the new Nevada Pregnant Workers' Fairness Act. Nevada employers with at least 15 employees must immediately post this notice in the workplace in a conspicuous place. The statute also requires employers to provide a copy of the notice to all new employees and any current employee within 10 days after that employee notifies her immediate supervisor that she is pregnant. The notice is available on [the Nevada Department of Employment, Training and Rehabilitation's website](#).

## Texas



The Fifth Circuit Court of Appeals recently affirmed the dismissal of a Title VII retaliation claim under Rule 12(b)(6) of the Federal Rules of Civil Procedure for failure to state a claim. The court found that the worker's internal complaint of harassment did not constitute protected activity sufficient to give rise to a retaliation claim because she could not have reasonably believed that receipt of a singular allegedly offensive text message violated any law. *Taliaferro v. Lone Star Implementation and Electronic Corp.*, No. 16-51152 (June 9, 2017).

**SAVE THE DATE: DECEMBER 7–8, 2017**

# NOT YOUR FATHER'S LABOR ENVIRONMENT: THE NEW HORIZON

The National Labor Relations Board (NLRB) is not changing as fast as many hoped it would. With no Republican majority in place on the Board, and Democrat Richard F. Griffin, Jr., as General Counsel, there is waning hope that the NLRB will change course in the immediate future. The Senate recently confirmed one of President Trump's nominees, Marvin E. Kaplan, as a member of the Board on a party-line vote, but the president's second nominee, William J. Emanuel, will not be voted on until the last week in September. The only other Republican currently on the Board, NLRB Chair Philip A. Miscimarra, recently announced that he would not seek a second term when his current term ends in December of 2017. If he is not replaced quickly, then even if the president's second nominee is confirmed, the NLRB will be deadlocked by the end of the year.

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## UNDER REVIEW: THE FUTURE OF TRADITIONAL PERFORMANCE APPRAISALS: A Q&A WITH MICHAEL SAYNE, DIRECTOR OF LEGAL, LABOR RELATIONS, PILOT TRAVEL CENTERS LLC

by Penny C. Wofford (Greenville)

According to some estimates, more than one-third of U.S. companies are planning to abandon (or have already abandoned) the traditional annual performance review. Putting aside the fact that very few enjoy the process, from the manager who has to complete the review to the employee who receives it, the annual review can potentially be ineffective. It focuses on past behaviors that the manager may or may not have addressed with the employee and often managers will grade-up performance, and so the review may not honestly reflect the employee's performance. We interviewed Michael Sayne, Director of Legal, Labor Relations at Pilot Travel Centers LLC about how Pilot Travel has changed its employee review process.

**Penny Wofford:** How has Pilot Travel changed the way it evaluates employees and why?

**Michael Sayne:** We have moved away from the traditional annual performance review and rating and points system. We are now evaluating team members on a four-quadrant matrix that aligns business-related performance with our customer-oriented culture. An employee team member could be a "pro" in business performance; however, without behaviors that exemplify our culture, the team member will not be successful or long-term with Pilot.

The matrix is quite simple but provides a more effective way of reinforcing our desired behaviors. The matrix allows a manager to plot out his or her entire team on one matrix and be able to more easily differentiate the top performers from those needing improvement. The emphasis is less on accountability for past practices and more so on development. Having the matrix allows managers to more easily recall what behaviors his or her top performers exemplify and those behaviors that need to be instilled in underperforming employees.

**PW:** What tools and training did you provide managers to change the process?

**MS:** We are no different than other companies in that we continually face a challenge with our managers providing feedback and coaching, and appropriately documenting it. In addition to rolling out a training plan on the matrix evaluation criteria, we recognized that we needed to make it easier for managers to provide prompt coaching and feedback. Our legal team worked with our HR and IT departments to create an application that is installed on all of our managers' tablets. The application contains template forms for managers to provide instantaneous, or at least prompt, coaching and disciplinary action. We encourage all managers to provide positive feedback, as well as corrective coaching through the application. The application allows for electronic acknowledgment, and automatically transmits the feedback, coaching, or disciplinary action to the team member's personnel file maintained at the corporate office.

**PW:** What have been the results of the change?

**MS:** We are still implementing our new matrix evaluation criteria. We started at the top with the executives of our company, and we are now working our way to the store level in our implementation plan. However, we developed and installed the automated employee feedback application on all managers' tablets about three years ago. Over the past three years, we have measured approximately a 150 percent reduction in EEO charges and increased our success rate on unemployment compensation claims to about 92 percent. Just to put that in perspective, the increased success rates on unemployment compensation claims alone equates to about \$2.5 million in savings for our company annually. The decrease in EEO claims has allowed me to be more forward-thinking on other measures we can implement to improve the process and impact the bottom line.

**PW:** How long has it taken to implement the new review process? What would you do differently if you could go back to make the transition smoother?

**MS:** We are still working on the rollout of the new evaluation criteria. We have a timetable of about one year. We wouldn't necessarily approach this any differently, although we do continually emphasize the value of providing regular and timely feedback. Having the automated feedback application was an important precursor to eliminating a points-and-rating review system. We have the process necessary to provide prompt and documented feedback and coaching and we've made it easier; however, the manager still has to do it. So we regularly communicate that as a performance and cultural expectation of our managers.



# DOMESTIC VIOLENCE AND ITS POTENTIAL CONSEQUENCES IN THE WORKPLACE: HOW TO PROTECT YOUR WORKERS

by *Dennis A. Davis (Torrance) and Luther Wright, Jr. (Nashville)*

Daily reports of incidents of domestic violence are an unfortunate reality across our nation. Recent events in the news remind us that domestic violence issues can spill over into the workplace, sometimes causing loss of life and/or serious injuries. Domestic violence is defined as violence at the hands of a current or former intimate partner or family member. It is often physical violence, but just as often, it is psychological and emotional as well. Notably, the workplace is frequently one of the places victims feel safest and seek refuge, but it is also one of the places where abusers know their victims can routinely be found. This article will highlight best practices on ways to protect employees, prevent domestic violence incidents in the workplace, and respond to violent offenders who enter the premises.

## Create a Culture of Support

Employees dealing with domestic violence issues are frequently reluctant to share their circumstances because they fear the social stigma of victimization or because they fear workplace reprisals. [Comprehensive workplace violence policies](#) may help proactively and effectively address these concerns. Such policies can encourage employees to come forward when they need help, with the assurance that their personal circumstances will not be exploited or used against them in the workplace. Anti-violence policies can be used to change workplace culture and create an environment where domestic violence victims are encouraged to alert appropriate workplace contacts about domestic violence threats—even when the threats may not seem serious. In this regard, it's helpful for employees to have consistent and reliable avenues to confidentially report threats and concerns about violence and be educated about the importance of doing so.

Once threats and concerns are reported, an employer's security, safety, and legal personnel should be able to take all steps to secure the workplace. Strong general safety procedures often help reduce the number of domestic violence-related incidents in the workplace. Effectively managing ingress and egress procedures, visitor protocols, and general premises security (e.g., secured parking lots and security cameras) is vital to the creation of a safe workplace campus. Other preventive steps often include informing employees about threats on a "need to know" basis, alerting local law enforcement about violence concerns, and seeking legal restraining orders. When an employer's actions consistently demonstrate a commitment to safety, they have the dual effects of limiting perpetrators' ability to inflict harm and inspiring employees to report their concerns.

## Recognize the Issue

While there is no single profile of a victim or perpetrator of domestic violence, there are behaviors that have been shown to frequently precede extreme acts of violence. It is important for human resources (HR) professionals and supervisors to familiarize themselves with the warning signs so that timely intervention and prevention are possible.

## Respond to the Issue

The key to preventing workplace violence and lessening the severity of the acts that do occur is taking note of the warning signs in the earliest stages. But it is also essential to respond to the warning signs. A response should include the following actions:

- **Acknowledge the Behavior.** To establish a culture of dignity and respect, address inappropriate behavior in the earliest stages and by the closest supervision level. All supervisors can be trained to conduct counseling sessions with employees as soon as they notice behavior indicative of an employee having trouble.
- **Document and Report to HR.** First-level supervisors are the eyes and ears of the organization. They have more face-to-face contact with employees than any other level of management. But they need not be alone in dealing with potentially problematic employees. Even when the appropriate intervention has been made, supervisors can be instructed to make sure that they are not making decisions in vacuums and to make others (HR, security, upper management, etc.) aware of concerns about employees.
- **Make Referrals and Get Others Involved.** Employers should make sure that they are taking full advantage of the resources available to them. As soon as issues arise with employees, employers can consult with their employee assistance program (EAP) to find out what resources are available for employee counseling. If threats have been made, it would be appropriate to contact local law enforcement.

## Publicize Policies

Employers' workplace violence policies work best when they are widely disseminated and explained, in detail, to employees. One of the most important things an employer can do is inform all of its employees of what the company has done to prevent workplace violence and what it is they can do to support the company's efforts.

Importantly, employers should inform employees that in the event of an actively violent incident, they have the obligation to remove themselves from harm's way (i.e., run). If they find that running will place them in danger, they should find shelter in place (i.e., hide). As an absolute last resort, employees should know that you do not want them to be victims. They should do all that they can to survive a violent altercation (i.e., fight).

## Conclusion

Preventing workplace violence incidents requires a group effort. Workplaces are safer when all employees are educated about the signs of domestic violence and informed about the steps they can take to prevent violent incidents. Employers may want to make efforts to ensure that their workplace violence policies are robust and constantly evolving to respond to potential threats.

TOP

10

## TOP 10 TIPS FOR SEASONAL HIRING

by Kelly S. Hughes (Charlotte)

It's that time of year again—many employers, especially retailers and hospitality employers, are hiring seasonal workers for the holiday shopping season. Despite the challenge of adding so many employees in a short period of time, human resources departments shouldn't take shortcuts with recruiting, onboarding, and training. Below are 10 tips to keep in mind during this hectic time of year.

**1 Review Employment Applications**

Employers should take this opportunity to review their applications for compliance with federal, state, and local laws. For example, many states and municipalities have passed “ban the box” legislation, limiting the types of information employers can ask new applicants. Failure to comply with such laws can result in steep penalties.

**2 Don't Skip the Background Check**

Companies that perform background checks as part of the regular hiring process may want to do the same for seasonal hires. Though background checks can be costly and time-consuming, employers should think twice before omitting them. Also, keep in mind the various obligations under the Fair Credit Reporting Act and any similar state laws when taking adverse employment actions based upon information contained in a consumer report.

**3 Review Leave Policies**

The “localization” of employment laws at the state and municipal levels has continued in 2017, further complicating compliance for multistate employers. Leaves of absence laws are among the most common, with several local jurisdictions requiring employers to provide paid family and medical leave. Be sure that leave policies have been updated to comply with the new requirements.

**4 Train Seasonal Hires**

Training seasonal workers during the onboarding process can help the organization run smoothly and minimize liability down the road. Key areas on which employers may want to train seasonal hires include policies on equal employment opportunity, discrimination, harassment, and retaliation (which should include reporting mechanisms for employee complaints); wage and hour; workplace safety; attendance expectations; and general workplace rules.

**5 Put it in Writing**

Communicating with seasonal workers during the onboarding process is critical to minimize liability down the road. Here are some key areas to consider documenting:

- *Duration of Employment* — Employers may want to give their seasonal employees an idea of the likely duration of the employment, but do not guarantee or promise a specific period of employment (and thus alter the employee's at-will status). Consider requiring seasonal employees to sign an acknowledgment that their employment is at-will.
- *Compensation* — Give employees information about their pay rates; most seasonal workers are nonexempt, and it is important to make sure that the hourly pay rate is communicated to the employee before starting work.
- *Job Description* — Employers may want to give seasonal employees a copy of their job descriptions so they fully understand the scope of their responsibilities.
- *Employee Handbook* — Employers may want to provide a copy of the handbook and ask seasonal employees to sign a written acknowledgment confirming receipt. At a minimum, consider providing copies of applicable equal employment opportunity, non-harassment/retaliation, and wage and hour policies.

**6 Don't Forget About Other State and Local Laws**

In addition to leaves of absence, many states and local governments have passed laws related to minimum wage and predictive scheduling and have enacted protections for pregnant and nursing mothers. Just because they are employed for a short period of time does not mean that seasonal workers are not entitled to the protection of these laws. Employers should examine which state and local laws apply to their locations and take steps to comply.

**7 Make Sure That the Employee is Eligible**

Seasonal workers have the same eligibility verification requirements as nonseasonal workers. Be sure to comply with I-9 verification requirements.

**8 Know the Separation Process for Seasonal Hires**

Separation is one area where the policies that apply to regular employees and seasonal employees may differ, depending on the circumstances and the jurisdiction. For example, in some cases, seasonal employees do not accrue vacation or sick leave, and, as a result, those issues don't need to be addressed at termination. However, employers may want to carefully consider what rights do apply. They may also want to document the separation process and complete exit interviews with seasonal employees so that accurate records of employees' time with the company are maintained.

**9 Seasonal Hires May Count as Part of the Workforce Under Some Laws**

Remember that seasonal employees may need to be counted for purposes of applicable state or federal laws. Smaller employers in particular need to be cognizant of the potential impact of seasonal workers with respect to the triggering of employment laws such as Title VII of the Civil Rights Act. If the employer is rather small but utilizes seasonal employees for 20 or more workweeks during the calendar year, those employees will be counted when determining whether the employer has the required number of employees for purposes of Title VII coverage. Similarly, adding seasonal workers could cause an employer to qualify as an applicable large employer under the Affordable Care Act.

**10 The Same Rules Apply**

Finally, remember that the same employment laws, regulations, and protections generally apply to all employees—even if the term of employment is brief. Seasonal employees are protected by provisions of Title VII, the Americans with Disabilities Act, the Fair Labor Standards Act, and other important federal and state laws. Unless doing so would create an undue hardship, employers must reasonably accommodate sincerely held religious beliefs and must reasonably accommodate employees with disabilities. If a seasonal employee requests an accommodation, treat the request as you would a request by a permanent employee.

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# SPOTLIGHT ON OGLETREE DEAKINS' SACRAMENTO OFFICE

In January 2017, Ogletree Deakins opened its 50th office in Sacramento, California. Led by shareholder Anthony DeCristoforo, the firm's office in the "City of Trees" has doubled in size since its opening. Below we highlight some interesting facts about California's capital city and employment law in the Golden State.

- \* California has one of the broadest anti-discrimination laws in the nation, with over 15 different protected classifications set forth in the California Fair Employment and Housing Act.
  - ✦ *All That Glitters.* In 1848, prospectors discovered gold near Sacramento. During the infamous Gold Rush, ambitious treasure hunters pulled over 750,000 pounds of gold out of the area, which was estimated to be worth \$2 billion.
- \* In most states, employees don't earn overtime until they exceed 40 hours of work in a week. California law provides for a daily overtime requirement, meaning that most employees are entitled to overtime if they work more than eight hours in a day.
  - ✦ *Foodies Welcome.* Located in one of the richest agricultural regions in the world, Sacramento is regarded as "America's Farm-to-Fork Capital." With agricultural festivals, farmers markets, and an emphasis on locally grown food, Sacramento is the premier place for the perfect plate.
- \* Non-compete agreements are generally unenforceable in California.
  - ✦ *Kites Beware.* Sacramento's enormous tree canopy might be a nuisance to kite flyers, but it's a literal breath of fresh air to everyone else. The city boasts one of the largest tree canopies among major world cities, according to a study from MIT.
- \* California's Private Attorneys General Act (PAGA) is a bounty hunter statute that allows employees alleging various violations of the California Labor Code to file lawsuits and recover civil penalties on behalf of themselves, other employees, and the State of California.
  - ✦ *But It's a Dry Heat.* Summers in Sacramento can be sweltering. In July, the average temperature during the day gets up to 92.4 degrees Fahrenheit. The hottest day in Sacramento was recorded in 1961, when the thermometer topped out at 115 degrees Fahrenheit.



# 52

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***Additional Information***

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# Sixth Annual

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LAWYERS

## NAVIGATING CALIFORNIA EMPLOYMENT LAW

A Strategic Program for Multi-State Employers

**FEBRUARY 28-MARCH 3, 2018**

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HRCI, SHRM, and CLE credit is anticipated for this program. To confirm whether CLE is available in your respective state, please email [cle@ogletree.com](mailto:cle@ogletree.com) in advance.



**October 2017**

October 3	<b>WEBINAR</b>	<a href="#">The Future of Class Action Waivers: An Up-to-the-Minute Report on the Supreme Court Argument in Murphy Oil</a>
October 4	Denver, CO	<a href="#">Doing Business in Canada, in Mexico, and Around the World</a>
October 4	Costa Mesa, CA	<a href="#">An Evening of Networking and Style</a>
October 5	Birmingham, AL	<a href="#">Benefits Briefing: Navigating Open Enrollment and Avoiding Common Pitfalls</a>
October 11	<b>WEBINAR</b>	<a href="#">Changing Technology, Flexible Schedules, and More: The Multigenerational Workforce</a>
October 11	Philadelphia, PA	<a href="#">Employment Law Briefing</a>
October 12	Overland Park, KS	<a href="#">Managing a Workforce in 2018</a>
October 13	Atlanta, GA	<a href="#">Managing a Workforce in 2018</a>
October 18	Needham, MA	<a href="#">Employment Law Briefing</a>
October 18	Seattle, WA	<a href="#">Employment Law Briefing</a>
October 19	Birmingham, MI	<a href="#">Employment Law Briefing</a>
October 19	Sacramento, CA	<a href="#">Managing a Workforce in 2018</a>
October 19	Oklahoma City, OK	<a href="#">Employment Law Seminar</a>
October 20	Scottsdale, AZ	<a href="#">Managing a Workforce in 2018</a>
October 20	Austin, TX	<a href="#">15<sup>th</sup> Annual Labor and Employment Law Update</a>
October 24	Minneapolis, MN	<a href="#">Beer, Wine, and Spirits, Part III: Preparing for the Winter Workplace</a>
October 24	La Jolla, CA	<a href="#">Managing a Workforce in 2018</a>
October 25	Costa Mesa, CA	<a href="#">Managing a Workforce in 2018</a>
October 25	Nashville, TN	<a href="#">Employment Law Briefing</a>
October 25	Rosemont, IL	<a href="#">Happily Ever Thereafter: A Summary of The New AIA Contract Documents</a>
October 25-27	Dallas, TX	<a href="#">Workplace Safety Symposium</a>
October 26	Los Angeles, CA	<a href="#">Managing a Workforce in 2018</a>
October 26	San Francisco, CA	<a href="#">Managing a Workforce in 2018</a>
October 26	Memphis, TN	<a href="#">Reel Ethics</a>
October 31	Chicago, IL	<a href="#">2017 Employment Law Update</a>

**November 2017**

November 1	<b>WEBINAR</b>	<a href="#">Preparing for the Massachusetts Equal Pay Law, Part III</a>
November 1	Oak Brook, IL	<a href="#">2017 Employment Law Update</a>
November 2	Santa Monica, CA	<a href="#">Employment Law Briefing for Start-Up and Technology Companies</a>
November 2	Indianapolis, IN	<a href="#">Managing a Workforce in 2018</a>
November 7	Skokie, IL	<a href="#">2017 Employment Law Update</a>
November 8-11	Boca Raton, FL	<a href="#">Corporate Labor and Employment Counsel Exclusive</a>
November 10	Denver, CO	<a href="#">Managing a Workforce in 2018</a>
November 14	Dallas, TX	<a href="#">Employment Law Briefing</a>
November 15	Houston, TX	<a href="#">Employment Law Briefing</a>
November 16	St. Louis, MO	<a href="#">Employment Law Briefing</a>
November 16	San Antonio, TX	<a href="#">Employment Law Briefing</a>