

October 2013

## Reporter

**Employment Law***by Kelly O. Scott, Esq.***Workplace Violence Examined (Part II)**

Using the risk factors outlined in our September Employment Law Reporter, and with consideration to the various types of possible workplace violence and the nature of the employer's business, employers should establish various workplace security measures as part of an Injury and Illness Prevention Program ("IIPP"). Indeed, in California, employers at risk for the various types of violence are required by Cal/OSHA to include as part of their business's IIPP the following:

1. A system for ensuring that employees comply with safe and healthy work practices including ensuring that all employees comply with work practices designed to make the workplace more secure and do not engage in threats or physical actions which create a security hazard to other employees in the workplace;
2. A system for communicating with employees in a form readily understandable about workplace security hazards, including a means an employee can use to inform the employer of security hazards at the worksite without fear of reprisal;
3. Procedures for identifying workplace security hazards, including scheduled period inspections to identify unsafe conditions and work practices;
4. Procedures for investigating occupational injury or illness, including those arising from a workplace assault or threat of assault;

**Upcoming 2013 Seminars at ECJ****Thursday, November 7, 2013 - 8:30 a.m.-9:30 a.m.**

New Laws for 2014: Just When You Thought it was Safe to Get Back in the Water (on-line option available)  
*by Kelly O. Scott, Esq.*

**Thursday, November 7, 2013 - 10:00 a.m.-12:00 p.m.**

Sexual Harassment Prevention Training (must attend in person)  
*by Kelly O. Scott, Esq.*

*Please note: Accountants requesting CPE credit must attend in person at ECJ to receive credit.*

Please contact Brandi Franzman at [bfranzman@ecjlaw.com](mailto:bfranzman@ecjlaw.com) for registration information.

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5. Procedures for correcting unsafe conditions, work practices and work procedures, including workplace security hazards, in a timely manner and based on the severity of the hazard and with attention to procedures for protecting employees from physical retaliation for reporting threats; and
6. Training and instruction about how to recognize workplace security hazards, measures to prevent workplace assaults and what to do when an assault occurs, including emergency action and post-emergency procedures.

Additional measures may be required depending on the nature of the business. For example, late-night retail stores are encouraged to remove clutter or other obstructions and signs from windows so that an unobstructed view of the store is possible. Keeping the store and parking lot brightly lit is a good idea, as is mounting mirrors and surveillance cameras to allow monitoring of otherwise hidden corners of the establishment. Limiting the amount of cash available and posting an appropriate sign is a helpful deterrent to robbery as is training for employees on what to do in the event a robbery actually occurs.

For establishments at risk for Type II events, controlling physical access through the workplace is an important preventative measure. Barriers between clients and

service providers may be required. Alarm systems or “panic buttons” may be appropriate. Further, it is advisable to train employees on escape routes and establishing a “buddy” system in the event of an actual emergency. The retention of security personnel should also be considered.

For Type III events, employers must monitor employees who have a history of assaults or who have exhibited belligerent, intimidating or threatening behavior. Cal/OSHA reports that an employer’s considerate and respectful management of its employees represents an effective strategy for preventing Type III events. Layoffs, reductions in workforce and disciplinary actions can be triggering events and should be carried out in a manner which is designed to minimize the potential for the person to perceive the treatment as unfair or abusive. In connection with Type II, III and IV events, employers should consider seeking a temporary restraining order and an injunction on behalf of the affected employee(s) where appropriate.

In specific cases of workplace violence or threats of violence, employers are encouraged to seek legal counsel to ensure that the offense is responded to properly and that employees’ safety is protected. In addition, employers should not hesitate to contact law enforcement when there has been an assault or serious threat of harm.

## **Did you know...**

That Assembly Bill 10 has been signed into law and will amend Labor Code Section 1182.12 to increase the minimum wage in California to \$9.00 an hour on July 1, 2014, and to \$10.00 an hour on January 1, 2016? The minimum wage hike represents a 25% increase over the current rate of \$8.00 an hour. Following the increases, California will have the highest minimum wage rate in America, assuming other states do provide for significant increases in the near future. California currently has the eighth highest minimum wage. The State of Washington has the highest minimum wage at \$9.19 an hour. Only 19 states and the District of Columbia have set minimum wages higher than the federal mandate of \$7.25 an hour.

## **Well, now you know!**

*If you have any questions regarding this bulletin, please contact Kelly O. Scott, Esq., Editor of this publication and Head of ECJ’s Employment Law Department, at (310) 281-6348 or [kscott@ecjlaw.com](mailto:kscott@ecjlaw.com). If one of your colleagues would like to be a part of the Employment Law Reporter mailing list, or if you would like to receive copies electronically, please contact Brandi Franzman at (310) 281-6328 or [bfranzman@ecjlaw.com](mailto:bfranzman@ecjlaw.com).*

■ **Registration Time:**

8:15 a.m.

■ **Seminar Time:**8:30 a.m. to 9:30 a.m.  
(continental breakfast provided)■ **Cost:**

\$35 per person

*What attendees  
are saying ...*

*"Kelly Scott was fabulous. His good-natured presentation was both informative and entertaining. His presentation style enabled the attendees to participate and I believe retain the presentation materials."*

■ **Registration Time:**

9:45 a.m.

■ **Seminar Time:**10:00 a.m. to 12:00 a.m.  
(continental breakfast provided)■ **Cost:**

\$35 per person

■ **New Laws for 2014:  
Just When You Thought it was Safe to  
Get Back in the Water**Presented by *Kelly O. Scott, Esq.*

Thursday, November 7, 2013 at Ervin Cohen &amp; Jessup LLP

Change is good... unless you are an employer in the State of California. Over the last year the legislature and the courts have been busy changing the landscape in which California employers do business and, contrary to what your mother may have told you, what you don't know CAN hurt you! We will review the most important developments that will have an immediate impact on the way you do business. Don't miss this opportunity to stay on top of the issues... before the sharks come after you!

**Register by Monday, November 4th.** Contact Brandi Franzman at [bfranzman@ecjlaw.com](mailto:bfranzman@ecjlaw.com) or (310) 281-6328 for registration information. Space is limited. Parking validation will be provided.

*This seminar qualifies for 1.0 hours of Continuing Professional Education credit for Accountants.*



*Kelly O. Scott, Esq.* heads ECJ's Employment Law Department and has over 25 years of experience in wage and hour, wrongful termination, harassment, discrimination, retaliation, class action, disability, medical leave, investigation, compliance training and litigation matters. Mr. Scott was named Best Employment Lawyer in Southern California for 2010 by the 5W Report, and was selected for inclusion in Southern California SuperLawyers®, published in Los Angeles magazine, for 2012, 2011, 2010, 2009, 2008, 2007, 2006 and 2004. Mr. Scott maintains a Martindale-Hubbell peer rating of AV.

■ **Sexual Harassment Prevention Training**Presented by *Kelly O. Scott, Esq.*

Thursday, November 7, 2013 at Ervin Cohen &amp; Jessup LLP

You know the drill: all managers and supervisors who are employed in California are required by law to complete at least two hours of interactive sexual harassment training. The training must take place every two years and within six months of promotion or hire. This workshop will not only meet these educational requirements, but exceed them. You will learn situation-specific techniques regarding the prevention and correction of sexual harassment under both federal and state law. In addition, you will walk away with a practical understanding of the remedies available to victims of sexual harassment as well as the defenses employers have at their disposal. Presented in a lively, entertaining and engaging format, what you learn in this workshop will stay with you for the next two years... and beyond.

**Register by Monday, November 4th.** Contact Brandi Franzman at [bfranzman@ecjlaw.com](mailto:bfranzman@ecjlaw.com) or (310) 281-6328 for registration information. Space is limited. Parking validation will be provided.

*This seminar qualifies for 2.0 hours of Continuing Professional Education credit for Accountants.*