

LABOR AND EMPLOYMENT

Navigating Today's Changing Workplace



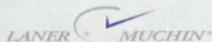
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What types of employment-law issues do you most frequently help your clients navigate?

Joe Yastrow: The most frequent issues I handle involve terminations of employment, which includes everything from counseling employers in strategizing terminations, preparing severance documents and defending challenges to such terminations before state and federal courts, as well as government agencies. These cases most often involve claims of discrimination, harassment and/or retaliation. I also spend a great deal of time counseling clients regarding compliance with state and federal employment laws, including laws pertaining to discrimination and harassment, wage and hour laws, the National Labor Relations Act, the Occupational Safety and Health Act, restrictive covenants and many others.

How can employers avoid costly employment issues?

JY: Periodic labor relations audits identify potential areas of risk that can be addressed before they turn into litigation. I

also think that every employer should strongly consider purchasing an employment practices liability insurance policy. Probably above all else, hiring the right people is the best way to avoid employment disputes.

How are the Weinstein case and similar ones in the news affecting your clients' workplace policies?

JY: The "no tolerance" view that's sweeping the country will encourage many women—and some men as well—who may have kept silent in the past, to come forward with their complaints. In light of these trends, we'll encourage clients to review their harassment policies and complaint procedures and to provide training to personnel in harassment prevention.

How are you helping clients deal with the wave of new sick leave laws?

JY: This is quite a challenge, given the proliferation of such laws across the country. Our firm has devoted a great deal of time to researching the applicable laws for our clients across the country, including numerous municipalities, drafting and revising employee handbooks and labor contracts, and training management in complying with these laws.

What changes should companies make to their recruiting efforts as a result of recent legislation?

JY: Prudent employers should review their existing hiring practices with particular attention to new laws governing background checks, biometric testing, drug testing, use of salary history information and immigration

compliance. There've been a multitude of recent changes that must be taken into account regarding the hiring process.

In today's social media environment, what recourse does a company have for employees who are publicly active in political or other causes that are inconsistent with the company's values?

JY: The good news here is that private employers still have a fair amount of latitude in restricting their employees' communications on social media because private sector employees do not have First Amendment protection. On the other hand, private sector employers may not infringe upon certain types of legally protected activity engaged in by their employees. Thus, prohibiting employees from complaining about or criticizing the employer for alleged discrimination or harassment could run afoul of discrimination laws. Similarly, the current law under the National Labor Relations Act provides broad protection for employees who express opinions about wages, hours and working conditions affecting them and their coworkers, and the National Labor Relations Board has undertaken aggressive enforcement actions in this area.

What employment law-related changes do you expect to see in 2018?

JY: Most federal agencies that administer employment laws will be less aggressive as the current administration's appointees begin to review cases and make policy decisions. Agencies are likely to be more employer-friendly than what we saw during the Obama administration. Similarly, I think the new National Labor Relations Board will overrule some of the Obama board's break with precedent in the areas of social media and email use, enforceability of arbitration agreements and class-action waivers. On the other hand, more active enforcement of immigration laws should prove to be a challenge to employers.