



Date: July, 2007

ADA - EEOC - FMLA - FLSA
OSHA - Sexual Harassment
World's Comp - WPA
COBRA - IRCA - OSHA

The Focus

A Compliance Check Newsletter

LYONS
COMPANIES
Risk Management | Insurance Brokerage

New Minimum Wage Poster

A revised Federal minimum wage poster, reflecting the recently enacted minimum wage increases, is now available free of charge on the Department of Labor's Web site. Every employer of employees subject to the Fair Labor Standard Act's minimum wage provisions must post, and keep posted, a notice explaining the Act in a conspicuous place in all of their establishments so as to permit employees to readily read it.

Effective July 24, 2007, the federal minimum wage for covered non-exempt employees will be \$5.85 per hour. The minimum wage increases to \$6.55 per hour effective July 24, 2008; and \$7.25 per hour effective July 24, 2009.

A separate provision of the recently-passed law brings about phased increases to the minimum wage in American Samoa and the Commonwealth of the Northern Mariana Islands, with the goal of bringing the minimum wage in those locations up to the general federal minimum wage over a number of years.

Many states also have minimum wage laws. Covered employers must comply with both.

The tip credit provisions of the FLSA remain the same. An employer is still required to pay \$2.13 an hour in direct wages if that amount plus the tips received equals at the least the Federal minimum wage, provided the employer has informed the employee of the tip credit being taken, the employee retains all tips except to the extent they participate in a valid tip pooling arrangement, and the employee customarily and regularly receives more than \$30 a month in tips.

Michigan Steel Tubing Company to Pay \$500,000 to Settle EEOC Class Race Bias Lawsuit

Michigan Seamless Refused to Hire Class of Black Applicants, Agency Charged

A South Lyon, Mich., steel tubing company will pay one half million dollars and implement injunctive relief to settle a race discrimination lawsuit filed by the U.S. Equal Employment Opportunity Commission (EEOC), the agency announced recently. The EEOC had charged that Michigan Seamless Tube, after purchasing the assets of its predecessor company, refused to hire a class of African American former employees of the predecessor.

According to the EEOC's suit, Michigan Seamless began hiring former employees of the predecessor in November 2002. During the company startup, 52 of the former employees were

The Focus

hired -- none of them black. Michigan Seamless continued to hire former employees through 2005, but no African American employees of the previous company were ever hired. Many white employees hired had significantly less experience than the black former employees represented by the EEOC, and in some cases had actually been trained by the same African American employees who were denied hire. The suit also included other black applicants who were denied hire in favor of less qualified white applicants.

The EEOC asserted that Michigan Seamless's conduct violated Title VII of the Civil Rights Act of 1964, which prohibits race discrimination in employment.

Under the consent decree settling the suit, Michigan Seamless will pay \$500,000, to be distributed to the class members based on an individualized determination. Michigan Seamless is also required to recruit black applicants by a variety of methods, and will provide training on anti-discrimination laws to all its employees, managers and executive officers.

"This case shows that race discrimination is still a major problem in today's workplace, more than 40 years after passage of the landmark Civil Rights Act," said Trina Mengesha, the EEOC attorney who litigated the case. "We trust that management at Michigan Seamless will change its practices and permanently stop discriminating against qualified black applicants."

She also noted that on February 28, 2007, EEOC Chair Naomi C. Earp launched the Commission's E-RACE Initiative (Eradicating Racism And Colorism from Employment), a national outreach, education, and enforcement campaign focusing on new and emerging race and color issues in the 21st century workplace. Further information about the E-RACE Initiative is available on the EEOC's web site at <http://www.eeoc.gov/initiatives/e-race/index.html>.

In Fiscal Year 2006, the EEOC received 27,238 charges alleging race-based discrimination, accounting for 36 percent of the agency's private sector caseload. Historically, race-based charges have been the most frequent type of filing with EEOC offices nationwide.

Cambridge, Mass.-Based International IT Company Agrees to Pay \$2.4 Million to Underpaid H-1B Non- Immigrant Workers Following U.S. Labor Department Investigation

Patni Computer Systems Inc. of Cambridge, Mass., has agreed to pay more than \$2.4 million to 607 non-immigrant workers following an investigation by the U.S. Department of Labor.

An investigation by the department's Wage and Hour Division found that computer professionals employed under the H-1B visa program by Patni were not paid required wages for the period between January 2004 and December 2005.

The H-1B visa program permits employers to temporarily hire foreign workers in professional occupations such as computer programmers, engineers, physicians and teachers. H-1B workers must be paid at least the same wage rates as are paid to U.S. workers who perform the same types of work or the prevailing wages in the areas of intended employment.

The Wage and Hour Division enforces the H-1B wage provisions of the Immigration and Nationality Act, in addition to other federal laws pertaining to wage payments. The Labor

The Focus

Department's Web site provides detailed information about hiring foreign workers at www.dol.gov/compliance/audience/foreign_workers.htm.

Phoenix Jury Awards \$287,640 to Fired Muslim Woman in EEOC Religious Discrimination Lawsuit

Alamo Car Rental Fired Young Muslim Woman After 9/11 Attacks for Wearing Head Scarf During Ramadan, Agency Charged

A Phoenix jury has awarded more than \$287,000 in a religious discrimination suit against Alamo Car Rental brought by U.S. Equal Employment Opportunity Commission (EEOC). The EEOC had charged Alamo committed post-9/11 backlash discrimination based on religion when it fired a Somali customer sales representative in December 2001 for refusing to remove her head scarf during the Muslim holy month of Ramadan.

Alamo will pay \$21,640 in back pay, \$16,000 in compensatory damages, and \$250,000 in punitive damages to Bilan Nur. According to the EEOC's lawsuit, Alamo refused to permit Nur to continue to cover her head, as she had done in previous years, even if she wore an approved Alamo-logo scarf. The jury also heard evidence that, although wearing a head scarf did not violate the company's dress policy, Alamo fired Nur in December, 2001, only eight days before Ramadan was over, and declared her ineligible for rehire. The jury reached its verdict after also hearing testimony about the damages Nur, who was 22 years old at the time, suffered as a result of being fired.

Title VII of the Civil Rights Act of 1964 prohibits employers from discriminating against individuals because of their religion in hiring, firing, and other terms and conditions of employment. Employers must reasonably accommodate employees' sincerely held religious beliefs or practices unless doing so would impose an undue hardship on the employer.

In the first post-9/11 backlash case brought by the EEOC's Phoenix District Office, Judge Roslyn Silver took the unusual step of finding the religious discrimination so clear-cut, based on the pleadings, that the question of whether Alamo had violated the law did not need to be resolved by a jury. In the subsequent trial, which began on May 29, the jury was only asked to decide the amount of monetary damages to which Nur was entitled.

"For nearly six years, Alamo has continued to deny that it violated the law when it refused to accommodate Ms. Nur's religious beliefs and fired her," said Mary Jo O'Neill, regional attorney for the EEOC Phoenix District Office. "Judge Silver had already disagreed with Alamo, as did the jury with its award today. Title VII protects people of all religious beliefs, and no one should ever have to sacrifice her religious beliefs in order to keep a job."