

BUILT FOR EMPLOYERS

Date: May 29, 2020

FRIDAY FLURRY: UPDATES ON NEWS FROM THIS WEEK CDC Issues Guidelines for Employers Use of Antibody Tests

By: The Saqui Law Group and Jorge Lopez Espindola

The CDC recently issued guidance recommending that antibody tests should not be used to make return-to-work decisions. Antibody tests, also known as serologic tests, are used to determine if someone has had the coronavirus in the past. The CDC says in the guidance on its website that “[s]erologic tests results should not be used to make decisions about returning persons to the workplace.” The CDC cautions the public that antibody tests are not as reliable and notes that research is still ongoing. You can read the CDC guidelines [here](#).

COUNSEL TO MANAGEMENT:

As the country prepares to reopen, some employers have initiated policies and procedures to safely welcome back employees and customers to their businesses. Employers should read the latest CDC guidelines when preparing to reopen. It is important for businesses to reopen safely and with changing guidelines and laws, it is daunting to know what policies to implement when reopening. If you have any questions about how to safely reopen, contact the experts at the Saqui Law Group, a division of Dowling Aaron Incorporated.

Update on CalSavers Program

By: The Saqui Law Group and Christina Anton

We previously reported that the deadline for employers with 100 or more employees to register with the California Secure Choice Retirement Savings Program (“CalSavers”) was June 30, 2020. See our full article on the CalSavers program [here](#). On May 6, 2020, due to the COVID-19 pandemic, the CalSavers Board decided to extend the current deadline for certain employers.

Employers with more than 100 eligible employees now have until September 30, 2020 to register with the CalSavers program. However, the emergency regulations do not extend the current deadlines for employers with 51 to 100 employees or with 5 to 50 employees. Employers with 51 to 100 eligible employees must still register by June 30, 2021. Employers with 5 to 50 eligible employees must still register by June 30, 2022. You may read the regulations [here](#).

COUNSEL TO MANAGEMENT:

If you have questions about navigating the CalSavers Program, contact the experts at The Saqui Law Group, a division of Dowling Aaron Incorporated.

McDonald’s Employees Are Not “Lovin’ It”: Employees Complain About Unsafe Working Conditions During Covid-19

By: P. Elizabeth Helms

McDonald’s is facing a class action lawsuit from employees in Illinois and Occupational Safety and Health Administration (“OSHA”) complaints from employees in several California locations based on allegations it failed to adequately protect them from the coronavirus. The class action lawsuit filed in Illinois alleges that management failed to disclose an employee’s positive coronavirus test, failed to provide hand sanitizer, masks, and gloves, failed to provide safety training, and failed to enforce safety protocols.

Similarly, the OSHA complaints filed by several California employees allege that management failed to disclose when their coworkers were diagnosed with COVID-19. Employees claim that at one location, an employee infected with COVID-19 was allowed to return to work the day after calling in sick even though that employee still had symptoms of the virus.

COUNSEL TO MANAGEMENT:

This is a good reminder for employers to make sure you have adequate protective equipment available and enforce safety protocols such as frequent handwashing, social distancing, and keeping sick employees away from the workplace. If you have questions about the procedures your company is currently implementing to protect employees from the coronavirus, contact the experts at The Saqui Law Group, a division of Dowling Aaron Incorporated.

Sexual Harassment Prevention Training Now Online Through DFEH

By: Rebecca A. Hause-Schultz

The DFEH published free online training courses on preventing sexual harassment and abusive conduct in the workplace for non-supervisory employees. As a reminder, California law requires all employers of five or more employees to provide 1 hour of sexual harassment and abusive conduct prevention training to nonsupervisory employees and two hours of sexual harassment and abusive conduct prevention training to supervisors and managers once every two years. The law requires the training to include practical examples of harassment based on gender identity, gender expression, and sexual orientation.

The online training is available in both English and Spanish, and accessible on a computer or mobile device. The training requires users to actively click through the presentation and take quizzes, a certificate can be printed and saved at the end. Make sure you have your employee save a copy of the Certificate for the Company’s records.

The training for supervisors has not yet been published but per DFEH is “coming soon.”

Information on the training is available [here](#).

No Attorney Fees Awarded in Actions for Failure to Provide Rest Breaks or Meal Periods

By: The Saqui Law Group and Heather Domingo

On May 21, 2020, the California Court of Appeal ruled that a prevailing party may not recover reasonable attorney fees if the action is brought for failure to provide rest breaks or meal periods. Although the Labor Code does mandate an award of reasonable attorney fees to the prevailing party in an action for nonpayment of wages, an action for failure to provide rest breaks and meal periods does not qualify as an “action for nonpayment.”

In *Betancourt v. OS Restaurant Services, LLC*, the plaintiff brought actions for failure to give uninterrupted rest periods, and for wrongful termination and retaliation for internal complaints. She also sought attorney fees under Labor Code sections 218.5 and 226. The trial court awarded plaintiff \$280,794, but the appellate court reversed its judgment ultimately denying any recovery of attorney fees.

You may read the decision [here](#).

Counsel to Management:

If you have any questions about wage and hour compliance, contact the experts at The Saqui Law Group, a division of Dowling Aaron Incorporated.

Disclaimer: The goal of this article is to provide employers with current labor and employment law information. The contents should neither be interpreted as, nor construed as legal advice or opinion. The reader should consult with Dowling Aaron Incorporated, Saqui Law Group Division at (916)782-8555 or help@laborcounselors.com for individual responses to questions or concerns regarding any given situation.



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