



LEGAL BRIEFING

Modest Changes in New Laws Impacting California Employers

By Thomas H. Reilly

An election year and Governor Schwarzenegger's continuing efforts to promote business development in California resulted in another year of modest legislative change for California employers. As of January 1, 2007, California employers must be in compliance with the following new laws:

• **AB 1835—Minimum Wage Increase.** Effective January 1, 2007, the minimum wage in California increased from \$6.75 per hour to \$7.50 per hour. Effective January 1, 2008, the minimum wage in California will again increase from \$7.50 per hour to \$8.00 per hour. Employers are required to post amended wage orders reflecting these changes. Moreover, as a result of these changes, the minimum salary that may be paid to exempt employees (executive, administrative, or professional) increased to \$31,200 per year (\$2,600 per month) on January 1, 2007, and will again increase to \$33,280 per year (\$2,733.33 per month) on January 1, 2008.

• **AB 2095—Harassment Training for Supervisors; Accounting for Overtime on Payroll Stubs.** This bill amends Government Code section 12950.1 and clarifies that mandated sexual harassment training requirements apply only to supervisors working in California. (Notwithstanding this clarification, we recommend that employers train all of their supervisors as a means of avoiding claims.) This bill also amends Labor Code section 204 and provides that overtime paid in the next consecutive pay period may be itemized on the pay stub for such pay period, provided that the pay stub also sets forth the inclusive dates of the pay period for which the employer is correcting its initial report of hours worked.

• **AB 1806—DFEH Posters and Information Sheets.** This bill amends Government Code section 12950 and provides that the California Department of Fair Employment and Housing must post its employment discrimination posters and sexual

harassment information sheets on-line. Employers can download these required posters and information sheets at the Department's website, www.dfeh.ca.gov.

• **SB 144—The California Uniform Retail Food Facilities Law.** This bill provides comprehensive regulation of health and sanitation standards at retail food facilities. It includes mandated employee training in food safety and regulations preventing food employees who are suffering from symptoms associated with an acute gastrointestinal illness, or who are known to be infected with a communicable disease that is transmissible through food, from engaging in the handling of food until said employee is determined to be free of that illness or disease, or incapable of transmitting the illness or disease through food.

As a reminder, SB 101 (which passed last year) requires that employers remove social security numbers from pay stubs by January 1, 2008. Employers may use the last four digits of the employee's social security number or an identification number other than the employee's social security number, and should implement changes necessary to comply with this law during 2007.

Governor Schwarzenegger vetoed several bills that would have increased penalties for gender-based pay discrimination (AB 2555); provided unemployment compensation to employees who are locked out during labor disputes (AB 1884); prohibited discrimination against victims of domestic violence, sexual assault or stalking (AB 1745); and established a universal health care system funded by employer contributions (SB 840 and SB 1414).

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Contractors, Protect Yourselves— Home Improvement Laws Can Be A Contract Trap! By Laura Francine Shpiro

Everyone knows that the legislature doesn't hold lawyers in the highest esteem, and we've got the jokes to prove it. Does the government antagonize the legal field because everyone needs lawyers? Everyone needs contractors, too. Perhaps that's why, then, if a homeowner seeks out a contractor to improve and remodel a home, the legislature protects the homeowner almost to the extent of impracticability. And that's also why contractors need to ensure their contracts reflect the exact letter of the law or they could be rendered unenforceable.

The law requires that the contract contain the title "Home Improvement Contract," as well as the name and license number of the contractor. It also requires the contractor to provide a checklist to the homeowner, detailing to the homeowner how s/he can ensure the contract is legitimate. To wit:

• Did you (the homeowner) get at least 3 local references from the contractors you are considering? Did you call them?

• Building permits—will the contractor get a permit before the work starts?

• Does the contract include a complete description of the work to be done, the material that will be used and equipment to be installed? The description should include a plan and scale drawing showing the shape, size, dimensions and specifications. It should include brand names, model numbers, quantities and colors.

In addition to this checklist, multiple notices must be printed along with the contract concerning: CGL insurance, Workers Comp insurance, a "MECHANICS LIEN WARNING," the CSLB (Contractor's State License Board), the "Three Day Right to Cancel," and a statement requiring that any changes made to an order will be provided to the homeowner.

Also, every home improvement contract must precisely state—in 12-point type—that "THE DOWN PAYMENT MAY NOT EXCEED \$1,000 OR 10 PERCENT OF THE CONTRACT PRICE, WHICHEVER IS LESS." And the contract must state (in all caps) that it is "AGAINST THE LAW FOR A CONTRACTOR TO COLLECT PAYMENT FOR WORK NOT YET COMPLETED, OR FOR MATERIALS NOT YET DELIVERED."

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Congratulations to **Jan Gruen**, managing partner of our Walnut Creek office, on her installation as president of the Women's Council of the Home Builders Association of Northern California. She has also been appointed to HBANC's regional board. Jan co-chaired the Council's 5th annual Food & Gift Drive to a record approximately \$15,000 in donations for HomeAid shelter families.

Kudos as well to Newport Beach partner **Mark Himmelstein**, who was named Associate of the Year for 2006 by the Building Industry Association of Southern California, Orange County Chapter. Serving his first year as a member of the BIA/OC board, Mark co-chaired the Membership Committee to a very successful year, and he is chairing the committee in 2007.

Greg Dillion, was again recognized in the "OC Top 50" and for the fourth straight year, Greg, **Tom Newmeyer** and **John O'Hara** were named to the 2007 roster of Southern California Super Lawyers. Also listed were **Reed Archambault**, **Mike Cucchissi**, **Joe Ferrentino**, **Mark Himmelstein** and **Jane Samson**. The latest edition of the peer-review survey was featured in the February 2007 issue of Los Angeles magazine.

We applaud **Laura Watkins Ives**, a litigation partner in Newport Beach, who was elected to the 11-member board of the prestigious Long Beach Yacht Club.

We are proud to announce that **Shane E. Coons** has been named partner in our Newport Beach headquarters. Shane practices in the areas of business, real estate and insurance litigation.

The firm welcomes **John Bowerbank**, **Diana Chen**, **Shawn Ratcliff** and **Laura Shpiro** as associates in the firm's Newport Beach headquarters. Laura, Shawn and John are litigators, and Diana joins the transactional practice. Litigation associates **Peter Geckeler** and **Kyle Lewis** came aboard in Walnut Creek.

(Contractors continued from page 1)

With home improvement budgets climbing into the six-figure range, it is vital that contractors carefully craft their contracts by following these rigid requirements, or they could face citations by the CSLB and potentially end up with an unenforceable contract.

Laura Francine Shpiro is an associate in the litigation group of the Newport Beach office, focusing on business litigation, labor and employment law, real estate disputes and construction litigation. She can be reached at laura.shpiro@ndlf.com.

UPCOMING EVENTS

HOMEX 2007

Tuesday—March 13

Long Beach Convention Center

Mark Himmelstein on a panel: "Multi-family, Mixed-use & Transit-oriented Development—Perils, Pitfalls & Profits."

More info at www.HomeX2007.com.

BIA/OC 23rd Development Trends & Strategies Conference

Friday—April 27

Irvine Marriott

Mark Himmelstein participates in a general session: "What a Difference a Year Makes," sharing experience and strategies for remaining in the development game.

Information at www.biaoc.com.

HBANC Women's Council PCBC Bay Area Bus Tours

Tuesday—May 29

The HBA of Northern California offers 3 tours of Bay area housing. More info at <http://lhbanc.org/>, or www.pcbc.com.

PCBC 2007

Wednesday—May 30

Moscone Center, San Francisco

Jay Freedman on panel: "Addressing the Gray Areas of Going Green," looking at potential risks associated with the green-building trend. More info at pcbc2007.com.

About Newmeyer & Dillion LLP

Newmeyer & Dillion LLP, originally formed in 1984, is comprised of creative, highly motivated business attorneys who possess outstanding credentials, training and experience in their respective fields of practice. The firm represents a wide variety of clients, which include national and local financial institutions, real estate development companies, manufacturers and service organizations, as well as individuals.

Litigation

- *Business*
 - Unfair Competition/Trade Secret
 - Business & Professions Code §17200
 - Partnership Dissolution
 - Lender Liability
 - General Business Disputes
- *Real Estate*
 - Construction
 - Real Estate Finance
 - Environmental Warranty
 - Title
 - Inverse Condemnation and Eminent Domain
 - Government Tort Claims
 - Regulatory Takings
- *Labor & Employment*
 - Wrongful Termination
 - Employment Discrimination
 - Sexual Harassment
- *Insurance & Risk Management*
 - First and Third Party Coverage
 - First and Third Party Bad Faith
- *Products Liability*
- *Appellate Practice*

Business Arrangements

- Formation, Structuring, Maintenance and Evaluation of Business Entities (Corporations, Limited Liability Companies, General Partnerships, Limited Partnerships, Joint Ventures)
- Shareholder, Partnership and Stock Option Plan Agreements
- Purchase and Sale of Businesses
- Business Dissolutions
- Employment and Independent Contractor Matters
- Licensing and Franchising Arrangements

Corporate Finance, Securities and Mergers & Acquisitions

- Venture Capital Financing
- Mergers, Acquisitions, and Leveraged Buyouts
- Public and Private Securities Offerings
- Federal Securities Law

Real Estate Transactions

- Acquisition, Development, Option, Sale and Lease of Real Property (Residential, Retail, Multifamily, Office, Industrial, Agricultural)
- 1031 Like-Kind Exchanges
- Master Planned Community Developments and Community Associations
- Department of Real Estate and Other Regulatory Filings
- Construction Related Matters
- Military Base Reuse
- Due Diligence

Real Estate Lending & Finance

- Documentation of Real Estate, Personal Property and Unsecured Loans
- Coordination of Loan Transactions for Borrowers

Land Use/Environmental

- Development Agreements
- Mitigation Agreements
- Subdivision Map Act
- Environmental Permitting