

BBSI

**Welcome Paso Robles Wine
Country Alliance Members**

Kim Banks & Carla Silva

Human Resources Consultants

Kim and Carla serve local BBSI clients for all their human resources needs.

Together, we have over 25 years experience in:

Hospitality

Agriculture

Food & Beverage

Resorts/Spa

Manufacturing

Health Services

Construction

Trucking

Non-Profit

We all know California labor laws can be very complex and navigating through them can be a challenge for employers.

- This year 2,225 bills were introduced
- 1,016 made it through the legislative process and were sent to the governor's desk
- 83.5% of them were signed into law

We understand the difficulties in keeping up with the changes!



Pay Equity remains a National Focus

- Jobs that are ‘substantially equal’ - compare job duties
 - Skill
 - Effort
 - Responsibility
 - Working Conditions
 - Establishment



Salary History Bans

- Unlawful to have salary history on the application or in the interview process.

Ban the Box

- Criminal history inquiry can no longer be included on applications.
- Criminal background information can be sought once an offer has been made to the applicant.

Dynamex Operations West, Inc. v. Lee (4/30/18) California Supreme Court adopted a new legal standard that will make it much more difficult for businesses to classify workers as contractors.

New **ABC** Test:

Prong “A” of the ABC Test

A. The Worker is free from control and direction of the hirer in connection with the performance of the work, both under the contract for the performance of such work and:

Prong “B” of the ABC Test:

- B. The worker performs work that is outside the usual course of the hiring entity’s business.
- Employees typically perform services that are integrated into an employer’s operations (a plumber for a plumbing company)
 - Independent Contractors perform ancillary services that are central to their business, not that of the employer (a plumber providing services to a restaurant)

Prong “B” of the ABC Test: Best Practices

- Business should identify and document the specialization utilized by the contractor
- Contract with business entities, not individuals
- Client and employees should understand the IC is not part of the business but is a subcontractor
- Core business operations should not be outsourced
- Subcontractors should be audited to make sure they properly classify their workers as employees.

Prong “C” of the ABC Test:

C. The worker is customarily engaged in an independently established trade, occupation or business of the same nature as the work performed for the hiring entity.

- Worker must have taken steps to create independent business, making the decision on their own without collusion.
- Although the business does not necessarily have to prove that ICs took steps such as incorporation, licensure, advertising and the like to prove this prong, it is highly recommended.



ME TOO

The graphic features the words "ME TOO" in white, bold, sans-serif capital letters at the top. Below the text, there is a collection of hands of various skin tones (light, medium, and dark) raised in a gesture of solidarity. The background is a dark, textured blue.

EEOC Releases Sexual Harassment Statistics in October 2018

- Charges increased by 12% since beginning of the year
- Recovery has increased from \$47.5M to \$70M
- Website traffic on sexual harassment page more than doubled

Federal EEOC Published Lawsuits and Settlements in the past month:

- Burgers & Beer – gender discrimination in hiring
- Del Taco – harassment against young female employees
- Mariscos Altata - \$220,000 settlement for sexual harassment claim
- Sol Mexican Grill – harassment against female employees
- Credle Enterprises – verbal/physical harassment
- Christini's Ristorante Italiano – harassment and termination of bartender
- El tio Tex-Mex Grill – male on male sexual harassment
- TRG, Inc (Dairy Queen franchisee) – gender discrimination in hiring
- Daisy Dukes & Boots Saloon – hostile work environment



Many of the new laws stemmed from the #MeToo movement and strengthened harassment protections.

While sexual harassment training has always been a good practice, soon the training will become mandatory.

- ***Current law requires employers with 50 or more employees*** to provide supervisors with two hours of sexual harassment training within six months of hire or promotion.
- This new mandatory sexual harassment training law ***will apply to employers of five or more employees.***
- Employers will be required to provide two hours of sexual harassment training to supervisors ***and one hour to nonsupervisory employees within six months*** of hire or promotion, and every two years after that by January 1, 2020.

- Many employers that previously had no harassment training requirement will need to have one.
- Even those larger employers that had one will now have to provide training to a much larger group of employees.
- Employers and HR Professional may need to need to re-examine their existing harassment programs or potentially develop a new one to comply with the new standards.



AB 1976 - This bill will make California's lactation-accommodation law consistent with federal law on the requirement that a lactation space cannot be a bathroom.

- They did include a “hardship exemption” to this rule. This exemption allows an employer who can show it’s an ***undue hardship*** to find a location other than a bathroom (due to the size, nature, or structure of the business) to make reasonable efforts to find a private and close location other than a toilet stall.



SB 826

Requires publicly traded California companies to appoint a certain number of women to their boards of directors.



Covered corporations must have at least one female on their board by the end of 2019. Boards with five directors will need two—and boards with six directors will need three—female members by the end of 2021.

FAIR WORKWEEK LAWS

Known as ‘predictable scheduling’ or ‘secure scheduling’ laws

San Francisco passed this law in 2014 and other cities have followed suit and states are beginning to join (Berkeley, Emeryville, San Jose, Seattle, New York City, Washington DC, Oregon, Vermont, New Hampshire)

- *Minimum advance notice of schedules and changes*
- *Compensation for schedule changes with short notice*
- *Requirement to offer hours to part-time employees before hiring more employees*
- *Right to request schedule ‘accommodations’*

REMEMBER: WAGE & HOUR CHANGES JANUARY 2019



In 2016, Governor Brown signed SB 3, a bill that increases the minimum wage in California to \$15 per hour by 2022.

The governor's action made California the first state in the nation to commit to raising the minimum wage to \$15 per hour statewide.

- Keep in mind that on January 1, 2019, the state minimum wage increases to \$11 per hour for employers with 25 or fewer employees \$12 per hour for employers with 26 or more employees.

Date	26 or More Employees	25 or Fewer Employees
01/01/2019	\$12 per hour	\$11 per hour
01/01/2020	\$13 per hour	\$12 per hour
01/01/2021	\$14 per hour	\$13 per hour
01/01/2022	\$15 per hour	\$14 per hour
01/01/2023	\$15 per hour	\$15 per hour

Trying to understand California law can be difficult.

The items we've discussed are just a snapshot of areas that need an employer's attention. Our presentation today covered only a few of the new laws coming in 2019 and beyond.

We recommend that employers review their company policies and employment handbooks to ensure that they are up to date with these new laws.

For a comprehensive list of changes, please contact us and we will be happy to provide a more in-depth review.

We welcome you to contact us if you have any questions.



Thank You!



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