

## **EMPLOYMENT LAW BLOG CARNIVAL, Chinese New Year Edition**

By [Robin E. Shea](#) on January 16, 2012



The Chinese New Year is almost upon us. In honor of the [Year of the Dragon](#), and in fond farewell to bilingual Jon Huntsman, who announced that he was [withdrawing](#) from the presidential race (*hmm . . . [speaking Mandarin in a Republican debate?](#) . . . not sure that's a choice I'd have made*), we have enough employment and HR blog posts to get you through the entire new year's season without repeating once!

*(CAUTION - last I heard, the [anti-SOPA blackout](#) is still scheduled to occur on Wednesday even though the bill has been severely stalled in the House of Representatives, so if the links don't work on Wednesday, we hope you will try again on Thursday when everyone is back up.)*

OK, on with the festivities! Thanks to Wikipedia for the information about the Chinese New Year and the quotes.

### **Preliminaries**

Before New Year's Day, Chinese families thoroughly clean their houses -- not only to be ready for celebrations, but also to sweep away the bad luck from the prior year and make the house ready for

good luck in the new year. "Brooms and dust pans are put away on the first day so that the newly arrived good luck cannot be swept away."

**Mark Toth** of **The Manpower Group Employment Blawg** recommends some "housecleaning" with employer performance evaluations, in "[Evaluation Evaluation](#)" and "[Performance Evaluation Worst Practices](#)."

### **Day One: Respect Your Elders**

The Chinese have a number of traditions on New Year's Day, but the most universal is to honor one's elders. Chinese families "visit the oldest and most senior members of their extended families" on this day.



**Philip Miles** of **Lawffice Space** has a good post about an older applicant who was rejected for being "overqualified" -- is "[Too Smart to Hire?](#)" just code for age discrimination?

Also, if you represent family businesses, you will love **Adam Whitney's** "[You May Be Damned if You Work With Family Members](#)."

### **Day Two: Show Me the Money!**

On the second day of the Chinese new year season, families celebrate the birthday of the God of Wealth. "Business people of the Cantonese dialect group will hold a 'Hoi Nin' prayer to start their business" on this day "so they will be blessed with good luck and prosperity."

Prayer at work? **Jessica Miller Merrill** of **Blogging4jobs** has sparked lively comments and is sure to generate debate with her "[God Has No Place in the Workplace](#)." (For another view, please see my "[Religion in the Workplace: 5 Devilish Employer Mistakes](#)," and scroll to "Religion is a topic of which we must never speak, ever ever ever ever.")

### **Day Three: Do Not Leave the House Today\*.**

\**Pee-Wee Herman's fortune on [the day his bike was stolen](#).*

The third day of the season is the day of "the God of Blazing Wrath." Chinese families are advised to stay home and not visit relatives on this day.

While you're holed up indoors, be sure to visit **Ari Rosenstein's CPEhr's Small Biz HR Blog**, which has a free downloadable "[2012 Human Resources Updates: What Employers Need to Know](#)." Cuddle up next to a blazing fire and read his guide while you stay out of the way of the Blazing Wrath.

### **Day Four: Greedy Heathens Go Back to Work. (kidding!)**

Those who celebrate new year's for only a couple of days return to work on this day. Everyone else continues the festivities.

Speaking of attendance at work, **Jon Hyman** of the **Ohio Employer's Law Blog** has a great post entitled "[Resolve This Year to Properly Handle No-Fault Attendance Policies.](#)" This is a big issue, especially considering [the EEOC's \\$20MM settlement with Verizon](#), in which the agency claimed that the company's no-fault attendance policy violated the Americans with Disabilities Act.

### **Day Five: Firecrackers and Dumplings!**

The fifth day, *Po Wu*, is the day for pot stickers (*jiao zi*) and shooting off firecrackers to get the good attention and intercession of Guan Yu. Guan Yu was a general in the Han Dynasty and is now worshipped as a Chinese god of war, representing "loyalty, truth, strength, and justice."

**John Holmquist** of **Michigan Employment Law Connection** has an interesting [post](#) about an employer who tried to go on the offensive by filing a declaratory judgment action before an ex-employee could file suit alleging disability discrimination based on his HIV status.

### **Day Six: Back to the Grindstone, if You're Taiwanese.**

The Taiwanese have to go back to work today.

No doubt they'll be tweeting, Facebooking, and linking in. **Eric Meyer** of **The Employer Handbook** has a most-interesting post on "[Are employees' LinkedIn contacts considered your trade secrets?](#)"

And check out **Dawn Lomer** of **i-Sight Blog**, who advises us on "[Avoiding the Dangers of Social Media Background Checks.](#)"

### **Day Seven: We're Not Getting Any Younger.**

This is *renri*, the birthday of the common man. According to Chinese tradition, everyone is a year older as of this day.

Since we're all getting older, you may enjoy two blasts from the past on the subject of age discrimination: **Donna Ballman's** "[Nine Signs of Age Discrimination](#)" and my "[Nine Signs That You'll Lose Your Age Discrimination Case.](#)"



### **Day Eight: Everybody Back to Work! (And a Nice Custom)**

Everyone should be back at work by now, but Chinese employers offer a lunch or dinner for their employees, thanking them for the good work they've done in the past year.

And while we're on the subject of good employers, be sure to check out "[How NOT to Go Out of Business](#)" on **Tim Eavenson's Current Employment** blog and **Andrea Paris's** excellent [Q&A](#) on paying commissions in compliance with California law.

### **Days Nine and Ten: Thanks to the Jade Emperor of Heaven**

On these days, the Chinese offer prayer and thanks to the Jade Emperor of Heaven in the Taoist pantheon.

While giving thanks, you'll also be thankful for **Joni Kletter's** excellent [summary of recent cases](#) interpreting the Americans with Disabilities Act Amendments Act.

Also, see **Robert Fitzpatrick's** "[Observations Regarding the Latest Supreme Court Decisions](#)," which includes his take on the recent *Hosanna-Tabor* decision, as well as five other noteworthy cases relevant to employment law.

And **George Lenard** of **George's Employment Blawg** [takes a deep dive](#) into *Hosanna-Tabor*.

### **Days Eleven and Twelve: Holiday Peters Out.**

More celebratory dinners on days 11 and 12. Not much else, according to Wikipedia.

Since it's a quiet couple of days, this is a good opportunity to catch up on some excellent posts. **Donna Ballman** of **Screw You Guys, I'm Going Home** has [a must-read on one-sided confidentiality agreements](#), and **Dan Schwartz** of the **Connecticut Employment Law Blog** has [another must-read on employment rights of smokers](#).

### **Day Thirteen: "Ugh, I don't feel so good . . ."**

On Day Thirteen the Chinese are all partied out. They purge their systems by eating a pure vegetarian diet on this day, which is also devoted to Guan Yu.

While we're sobering up and fasting, it's a good time to read **Sharlyn Lauby's** "[Losing Your Driver's License Can Impact Your Career](#)," in which she interviews **Heather Bussing** of [HR Examiner](#).

You may also enjoy some a cold glass of milk and some "[Employment Law Leftovers](#)" if you can't face [what's up for the new year](#) just yet.

**Day Fourteen: ????**

Wikipedia makes no reference to this day. I guess nothing happens?

Since nothing's going on, this would be a good time to read my excruciating ["2011 labor and employment law year in review."](#) Guaranteed to have you begging for mercy!

**Day Fifteen: Grand Finale.**

The fifteenth and last day of the Chinese New Year is the Yuan Xiao Festival (aka the "Lantern Festival"). The candles and lanterns are lit to guide the good spirits to one's home. In Malaysia and Singapore, traditions similar to Valentine's Day are celebrated.

While we're on the subject of romance and unrequited love, be sure to read **Gary Gwilliam's** ["Reasons to Pursue Emotional Distress Damages in Employment Cases."](#)

Our "host with the most" in February will be [John Holmquist](#). Please join us then, and happy Chinese New Year!



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