

## "Human Capital"

*A monthly E-Blast from Attorney Liane A. Janovsky of Janovsky and Associates, updating you on the latest developments in Labor and Employment Law. We hope this information will help you optimize your employer-employee relationships, enhance employee productivity and minimize workplace conflicts.*

**Workplace Violence** - Annie Le was a student at Yale University in New Haven, Connecticut working on her PhD. Her death on September 8, 2009 was due to workplace violence.

OSHA (the Occupational Safety and Health Administration) is increasing its investigations of violence in the workplace. But aside from government oversight, it is good employment practice to perform thorough background checks on all employees before they are hired. Be certain that you have in place the plans and personnel you need to effectively investigate any threats against employees, as well as allegations of harassment and criminal misconduct.

The employees most susceptible to workplace violence are those who work in small groups, work with money, deliver products, and those who work alone late at night or early in the morning in high crimes areas.

A good measure for limiting the risk of workplace violence is to use security measures like surveillance cameras, guards, extra lighting and alarm systems. Employees who might work in risky conditions should have easy access to a panic button, cell phone or walkie-talkie to let others know they are in danger. If possible, employees should not to be left alone - make sure at least one other employee is always nearby.

**Staffing and Swine Flu** - Employers are already working with smaller staffs due to the recession, and the H1N1 virus may further harm productivity. The Centers for Disease Control and Prevention (CDC) is predicting that the H1N1 flu could reach pandemic proportions, which will cause job absenteeism. The CDC has posted good information on its website regarding private sector Human Resource policies and issues at <http://www.cdc.gov/H1N1FLU>.

**Party Control of National Labor Relations Board** – Since the Democratic Party is expected to hold the majority of seats on the NLRB, companies should prepare for some changes to pro-employer positions previously taken by the NLRB during the Bush Administration. Some of the issues that may be reversed are: whether an employee can use the employer's email system to discuss union business; whether an employee can have a co-worker lead an investigation that might result in disciplinary action; and which employees are considered statutory supervisors under labor relations laws.

**Employee Surveillance** - In *Hernandez vs. Hillsides Inc.*, Cal., No. S147552 (August 3, 2009), the California Supreme Court held that although an employer acted for the right reasons, it illegally invaded the privacy of two female workers by videotaping their work area. The employer aimed surveillance equipment directly at a computer where pornography had been viewed. The camera was only used after regular business hours, and the female employees were not recorded on the camera. Despite the employer showing the video to the employees (in an effort to reassure them that they had not been videotaped), the employees presented valid claims for invasion of privacy.

**I-9 Compliance** - The Department of Homeland Security has increased its audits for I-9 employees working illegally in the United States. It is very important for employers to make sure that all employees are in compliance with immigration laws. Now would be a good time to do an internal audit of all I-9 forms in all employee personnel files to make sure that your I-9 records are up to date, complete and accurate.

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