



M&G|exposure

MESSAGE FROM THE CEO: ALWAYS BE IMPROVING

Over the last several months, we have been planning and preparing for a system conversion within our Employee Benefits department – a huge endeavor that is coming to fruition this month. Our hopes for this project included streamlined processes, utilization of advancing technologies, and ultimately a better service experience for our clients.

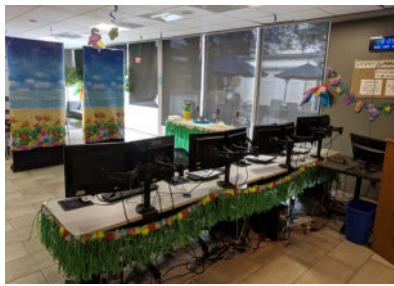
We know that the knowledge base we have amongst our employees is one of the most powerful tools we possess and we utilized the skills and traits of team members throughout the agency to help make this conversion a success. This meant asking people to step out of their comfort zone, to perform tasks that were new to them, or to teach others about the system that they had already mastered. And in true M&G fashion, the whole agency rose to the challenge.

As you can imagine, and may have even experienced yourself, big changes like this can bring about big stressors.

We went into this conversion knowing that it was going to have its challenges, and that our team would likely feel the pressure at one time or another. That's why we also went into this conversion with a plan to help alleviate that stress.

Throughout training and during our Go Live week, we have designated time for everyone to take a step back, take a breath, and enjoy some downtime. We are so proud of our employees and the work they do every day to better serve our clients and our agency. It does not go unnoticed and should not go unrewarded. This is part of our culture and we wouldn't have it any other way.

Brendan



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SPECIAL POINTS OF INTEREST

- Using ThinkHR To Its Fullest
- Santa Maria HR Association Seminar - Spanish Only
- Navigating Property Claims: Water Losses
- M&G Hosting the Santa Maria Chamber Mixer!



EXPANDED REACH OF CALIFORNIA PAGA REPRESENTATIVE ACTIONS

Contributed by: Louise Matheny, Human Resources Consultant

The Private Attorney's General Act (PAGA) is a statute that authorizes private litigants to bring action on behalf of public law enforcement agencies against an employer for violating the California Labor Code. Until recently, employees could only bring about PAGA claims for Labor Code violations which the employee actually suffered. However, the California Court of Appeals' ruling on *Huff v. Securitas Security Services USA, Inc.*, now states that "PAGA allows an 'aggrieved employee' – a person affected by at least one Labor Code violation committed by an employer – to pursue penalties for all the Labor Code violations committed by that employer." This means that even if an employee only suffers from a single Labor Code violation, they may now bring claims against the employer for other violations suffered by any other employee.

The court stated that this ruling is a result of the PAGA being drafted too broadly and essentially allows for plaintiffs to request a nearly complete audit of an organization's state wage and hour laws compliance.

While this could leave some employers concerned, the practical effect of the ruling may limit additional claims. For each alleged Labor Code violation, an employee must provide the Workforce Development Agency with a written notice of the facts and circumstances. Speculative or ill-defined violations will raise doubts to the claims. Additionally, even if an employee can claim a barrage of violations, it doesn't mean that they can all be manageably tried through a single lawsuit.

As an employer, the best course of action to protect yourself against any Labor Code violation claims is to be proactive in auditing your HR policies and practices to ensure they are compliant with state and federal laws.

USING THINKHR TO ITS FULLEST

Contributed by: Louise Matheny, Human Resources Consultant

HR does not have to be scary. Morris & Garritano and ThinkHR have your back! ThinkHR can help drive your success by assisting you in staying compliant, growing your business, and saving you time and money. The online portal offers several resources such as multi-state handbook builder, compensation tools, job description builder, compliance checklists, and training courses for compliance and employee development. In fact, ThinkHR has over 200 training courses! They even have the training courses outlined for specific industries such as construction, business and non-profits. Some examples are:



Once you use the tools and resources offered by ThinkHR, you'll see why we're so excited about this partnership! If you have any questions about ThinkHR, please contact Louise Matheny at 805-597-6365.

5 EMPLOYEE HANDBOOK MISTAKES TO AVOID

Contributed by: Louise Matheny, Human Resources Consultant

One of the many benefits for enrolling in ThinkHR with Morris & Garritano is having access to materials and education from national experts in the fields of HR and Compliance. This article is just a sampling of the many valuable pieces that can be accessed through the online portal or delivered straight to your inbox.

Gary Wheeler, partner at Constangy, Brooks, Smith & Prophete, LLP, a well-respected national employment law firm and legal partner to ThinkHR, explains five mistakes he sees frequently in his clients' employee handbooks.

It's too long, inconsistent, or redundant.

Like with your house, when you live with an employee handbook for a while, you collect things and it gets cluttered. Your handbook gets longer and runs the risk of having internal inconsistencies. Once or twice a year, it's a good idea to give it a thorough review to remove inconsistent or redundant policies, plus make it shorter and more readable. If you want people to follow the rules, it is important to have them be clear and accessible.

It reads more like an operations manual.

An overly-detailed handbook becomes too much of a procedures manual. For example, it's important to state that complaints of harassment will be responded to with a prompt and thorough investigation. But the policy should avoid giving too much detail, such as the number of days to expect each step of the investigation to take. Ultimately, if the employer needs to be flexible and deviate from unnecessary details in the handbook, this can be used against them.

Another area that often gets too detailed is the progressive discipline policy. If an employer has a collective bargaining unit, there are reasons these details may need to be given. But sometimes nonunion employers will have progressive disciplinary policies in their handbooks that don't allow them to maintain flexibility in handling employee behavior or performance issues.

It sounds too overbearing or paternalistic.

Some handbooks include policies that, as written, sound more intrusive and paternalistic than they really are in operation. For example, a financial services company had a policy that required employees to handle their finances in a responsible manner, which sounds intrusive. However, the policy was truly only concerned with financial accounts they had through the employer. The policy wasn't ultimately harmful in that case, but it required further explanation to make it clear the employer wasn't concerned with what the employees were doing with their personal lives. Carefully tailored language can help avoid a perception of the employer being overbearing or paternalistic.

It's missing information that affects enforcement.

Another mistake is including language that, while acceptable, isn't the best training tool for supervisors because it omits certain nuances. For example, an attendance policy may state a specific number of absences that are unacceptable during a certain timeframe. If the policy fails to state that absences covered by FMLA or local sick leave rules don't count against employees, you can end up having a well-meaning supervisor discipline an employee for absences that should have been allowed.

It doesn't identify the right contact people.

One of the things I see frequently is employers missing the opportunity to specify who their company's "first responders" are. These are the company representatives who will receive reports of anything from alleged misconduct to medical leave.

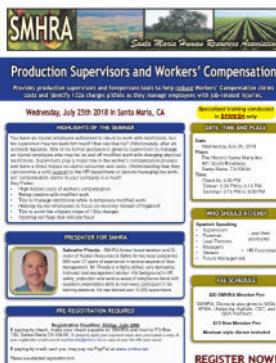
Employers should be selecting these people appropriately and training them about their role. For example, a person who receives reports of absences should understand when FMLA or local leave laws might come into play. A person who may receive reports of harassment should be trained to determine whether it's a general grievance best handled by an immediate superior or if it will need a more formal investigation.

However, the handbook will be more durable if you mention the reporting person by title and not name. Be sure the titles used in the handbook match the titles that actually exist in your organization; for example, don't tell someone to report misconduct to the HR director if you don't have an HR director.



SANTA MARIA HR ASSOCIATION SEMINAR

Spanish Only - Production Supervisors & Workers' Compensation



Wednesday, July 25th

Check In: 5:30 pm
 Dinner: 5:30 pm to 6:15 pm
 Seminar: 6:15 pm to 8:00 pm

The Historic Santa Maria Inn
 801 S. Broadway
 Santa Maria, CA 93454

Fee (includes dinner): \$60 SMHRA Member, \$70 Non-Member

Register Online at www.smhra.net (Deadline is Friday, July 10th)

Supervisors play a major role in the workers' compensation process and have a direct impact on claims outcomes and costs. Understanding how they can become a solid support to the HR department or person managing the workers' compensation claims in your company is a must!

Key Points:

- High hidden costs of workers compensation
- Being creative with modified work
- Tips to manage restrictions while in temporary modified work
- Helping injured employees to focus on recovery instead of litigation
- Tips to avoid the slippery slope of 132a charges
- Spotting red flags that indicate fraud

FORM 5500 AND PCORI FEES DUE NO LATER THAN JULY 31, 2018

Contributed by: Keith Dunlop, Director of Compliance & HR

The Patient Protection and Affordable Care Act (ACA) and associated federal law imposes various requirements on group health coverage that employers provide to their employees. The numerous compliance mandates throughout the year include such requirements as reporting, participant disclosure, and certain fee payments. There are two important compliance deadlines approaching which employers are advised to carefully review at this time.

July 31, 2018 – Form 5500

The Employee Retirement Income Security Act (ERISA) requires employers to file annual Form 5500 returns with the Department of Labor on health and welfare plans with 100 or more participants at the start of the plan year. The filing is due at the end of the seventh month following the end of the plan year (groups may have filed earlier than July 31 based on non-calendar year plan dates).

July 31, 2018 – Self-Insured Health Plan Fees

The Patient-Centered Outcomes Research Trust Fund (PCORI) fee is a fee on the issuers of certain health insurance plans and plan sponsors of applicable self-insured plans to help fund the institute. This fee also applies to stand-alone HRAs and Health FSAs that are not integrated with a self-insured major health plan. The fee is due on July 31 of the year following the last day of the policy or plan year.

Significant fines and criminal penalties may be imposed on an individual or company that willfully violates these and other compliance requirements. Contact Morris & Garritano Director of Compliance Keith Dunlop for further information regarding these or any other ACA-related issue.

ACA AFFORDABILITY PERCENTAGE INCREASES FOR 2019

Contributed by: Keith Dunlop, Director of Compliance & HR

Employer Shared Responsibility Rules

The ACA's employer shared responsibility or "pay or play" rules require Applicable Large Employers (ALEs) to offer affordable, minimum value health coverage to their full-time employees (and dependents) or pay a penalty. The affordability of health coverage is a key point in determining whether an ALE will be subject to a penalty.

These rules generally determine affordability of employer-sponsored coverage by reference to the rules for determining premium tax credit eligibility. Therefore, for 2014, employer-sponsored coverage was considered affordable under the employer shared responsibility rules if the employee's required contribution for self-only coverage did not exceed 9.5 percent of the employee's household income for the tax year.

Affordability Safe Harbors

Employers may use an affordability safe harbor to measure affordability of their coverage. The three safe harbors measure affordability based on Form W-2 wages from that employer, the employee's rate of pay or the federal poverty line (FPL) for a single individual. IRS Notice 2015-87 confirmed that ALEs using an affordability safe harbor may rely on the adjusted affordability contribution percentages for 2015 and future years.

The affordability test applies only to the portion of the annual premiums for self-only coverage and does not include any additional cost for family coverage. Also, if an employer offers multiple health coverage options, the affordability test applies to the lowest-cost option that also satisfies the minimum value requirement.

Plan Year Start	CA Min Wage	Affordability Percentage	Max EE Cost of Self- Coverage (Rate of Pay safe harbor)
2014 (7/1/14)	\$9.00	9.50%	\$111.15
2015	\$9.00	9.56%	\$111.85
2016	\$10.00	9.66%	\$125.58
2017	\$10.50	9.69%	\$132.27
2018	\$11.00	9.56%	\$136.71
2019	\$12.00	9.86%	\$153.82

Other available affordability safe harbors include Federal Poverty Level (FPL) earnings and Form W2 wages.

The Importance of Affordable Employer-Sponsored Coverage

Under the ACA, employees (and their family members) who are eligible for coverage under an affordable employer-sponsored plan are generally not eligible for a premium tax credit for coverage under an Exchange (e.g. Covered California). This is significant because the ACA's employer shared responsibility penalty for ALEs is triggered when a full-time employee receives a premium tax credit for coverage in any given month.

An ALE employer can avoid liability for an ESRP penalty by offering self-only health coverage that does not exceed 9.5 percent (indexed) of the employee's household income for the tax year.



3 WAYS TECHNOLOGY CAN ASSIST YOUR BENEFIT ADMINS

Contributed by: Celia Silacci, Employee Benefits Department Manager

HR Admins have a lot on their plate – processing payroll, hiring, onboarding and disciplinary action, facilitating PTO and other leaves of absence - all while overseeing the employee benefits administration. In the past, these tasks would have left an administrator buried under piles of forms and paperwork. But, thanks to some specialized technologies, benefit professionals are now able to shift their focus from the trivial tasks associated with employee benefits administration to a more impactful management strategy.

But how is technology changing the game? Here are three main ways:

Improving Accuracy and Efficiency

Human error is a part of life. Sometimes the results are insignificant, but sometimes the error can cause some major issues – like enrolling an employee in the wrong health plan, not enrolling them at all or forgetting to terminate them! Employers face a number of consequences such as dissatisfied employees, unpaid claims and unexpected added expense as a result of incorrect plan enrollment. ACA adds another layer of concern in that carriers cannot rescind coverage – making retroactive termination requests a thing of the past.

Rather than manually gathering and entering information for each employee, technology has made it possible to utilize online portals that integrate with various payroll systems and insurance carriers, eliminating the manual process that can be error-prone.

Insight Driven by Data

In order for benefit administrators to improve their benefits program, they need to have a clear understanding of what is working and what isn't. The better information they have, the better decisions they can make. While information from third-party sources such as national surveys, consulting firms, or even employee surveys can be helpful, data pulled directly from online portals can provide a real-time capture of what is actually taking place within your employee population. Benefit administration platforms have the ability to capture information that is important to your company.

Meaningful Employee Engagement

Understanding health care benefits can be overwhelming which is why employees look to the administrators for clarification and guidance. Clear communication can help alleviate confusion when it comes time for open enrollment. The hard part is, not everyone communicates the same way. But, by using online communication tools, administrators can personalize employee communication based on various factors such as demographics, geography, or classification. Customized messaging will encourage the employee to be more engaged in the enrollment process and therefore be more confident in their benefit decisions.

Benefits administration is not easy, and it will likely always have its challenges, but advancing technologies matched with a willingness to try something new can result in some great time-saving opportunities to ensure long-term successes for the company as a whole.



Navigating Property Claims

A series by Heather Ross, Claims Advocate

WATER LOSSES

Last month, we talked about the importance of moving forward with mitigating damages in the first few hours immediately following a property loss. In this month's installment, we'll go deeper into best practices following a water claim.

Of the various kinds of property claims, water losses are arguably the most problematic. First, water has the tendency to seep and spread through porous and semi-porous materials, which means that if it's left unchecked, the moisture can move farther and farther out from its point of origin and cause an even larger area of damage. The other issue with water damage is that dampness can lead to mold, which not only is difficult and costly to eradicate, but is often excluded from coverage under many property policies. For these reasons, it's especially important to take immediate action to get a water damage situation under control.

What you'll need to do will vary depending on the circumstances. Here are some ideas to get you started:

- If you can do so safely, turn off circuit breakers for wet areas of the building, to minimize the risk of electric shock.
- Turn off the water, or try to prevent it from coming into the building, as applicable.
- Call a plumber to repair any broken pipes. Save all damaged items, as your claims adjuster may want to inspect them.
- Wipe/mop up as much of the excess water as possible.
- Report a claim to your insurance company. Morris & Garritano is happy to help with this step, if needed.
- Document the damage with photos and videos wherever you can, and keep all your bills and receipts.

Beyond this point, it's probably best to get professionals involved. There are several disaster restoration contractors in the area; although Morris & Garritano is not able to make recommendations, we can certainly offer a list of local providers. Your insurance company may also be able to provide the names of contractors that they have vetted and approved in advance.

Whatever contractor you choose to use, it's best to make sure that they are experienced with water damage claims, accustomed to working with insurance, and prepared to document both the damage and the measures taken to mitigate the loss.

Once the property is completely dry, a field adjuster will typically come to your property to confirm coverage for the loss, inspect the damage, and determine what repairs are needed to bring the property back to pre-loss condition.

Next month, we'll talk more about the repair process, and how to avoid pitfalls that can increase your out-of-pocket costs.

ITA ELECTRONIC SUBMISSION OF INJURY AND ILLNESS RECORDS TO OSHA

Contributed by: Michael Schedler, Loss Control Consultant

NOTE: Only a small fraction of establishments are required to submit their form 300A data to OSHA.

Employers can now begin to electronically report their Calendar Year (CY) 2017 Form 300A data to OSHA. All covered establishments must submit the information by **July 1, 2018**. Employers can view their submitted CY 2016 Form 300A summary information, but they cannot edit or submit additional 2016 data on this website.

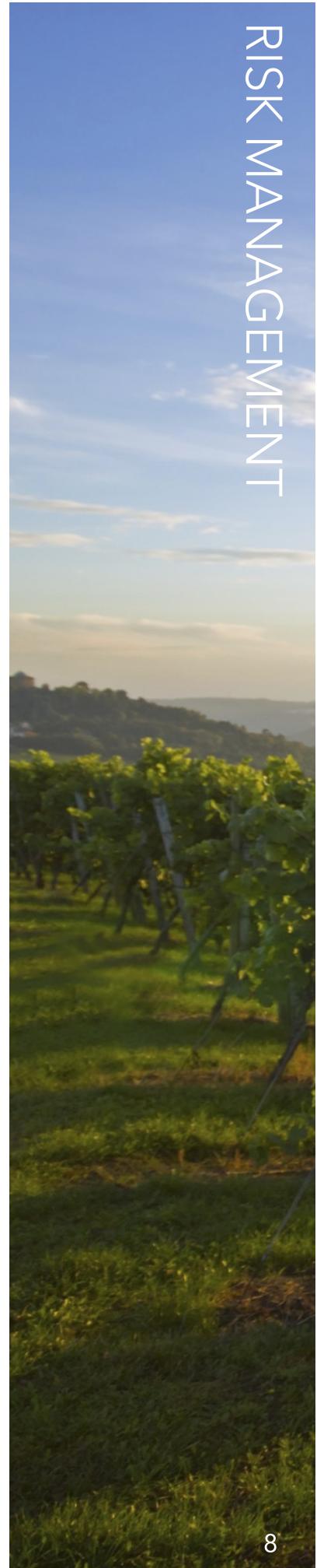
Remember, not all establishments are covered by this requirement. Establishments that meet *any* of the following criteria **DO NOT** have to send their information to OSHA. Note that these criteria apply at the establishment level, not to the firm as a whole.

- The establishment's peak employment during the previous calendar year was 19 or fewer, regardless of the establishment's industry.
- The establishment's industry **is on this list**, regardless of the size of the establishment.
- The establishment had a peak employment between 20 and 249 employees during the previous calendar year **AND** the establishment's industry **is not on this list**.

Covered establishments with 250 or more employees are only required to provide their 2017 Form 300A summary data. **OSHA is not accepting Form 300 and 301 information at this time.** OSHA announced that it will issue a notice of proposed rulemaking (NPRM) to reconsider, revise, or remove provisions of the "Improve Tracking of Workplace Injuries and Illnesses" final rule, including the collection of the Forms 300/301 data. The Agency is currently drafting that NPRM and will seek comment on those provisions.

Please visit <https://www.osha.gov/injuryreporting/> to access the ITA Login page and view more details regarding electronic submissions.

Source: <https://www.osha.gov/injuryreporting/>



IS THERE SUCH A THING AS FREE LABOR?

Contributed by: Mark Anelli, Commercial Lines Risk Advisor

The majority of businesses generally do not have volunteers offering their time and talents to work for free. Rather, this is most often seen in the world of non-profit organizations. However, the volunteering trend is something that we are seeing more and more of in various fields, particularly in the wine industry. Whether it is during harvest (Pick and Sip parties) or young enology students from local and abroad looking to exchange their time to learn the tricks of the trade, volunteers can be a helpful workforce. But you have to ask yourself, "What are my responsibilities to cover these volunteers?" or "What are my potential risks or liabilities for having these volunteers?"

In the state of California, you are liable for anyone being injured on your premises if they are working at your direction. Under California Labor Code, a volunteer is defined as someone who works for free, but is not necessarily an employee. The grey area comes into play when you start giving your volunteers items that could be considered compensation. Many Liability policies exclude injury to volunteer workers or will only include injury to volunteers as long as they do not receive compensation in any form from you or anyone else. That means that those bottles of wine you provided to volunteers, could be considered compensation – thus excluding them from receiving any benefit if they were injured.

As for protection for liability to third-parties in the course of a volunteer performing their duties, such as causing bodily injury to a guest or customer, the majority of policies would respond. However, if the volunteer causes bodily injury to you or to anyone else working for you, most General Liability policies would not respond with coverage.

If you are unsure of what your policies cover, be sure to consult your insurance risk advisor.



WHY WOULD I RECEIVE A RECORDS SUBPOENA ON A WC CLAIM?

Contributed by: Mary Jean Collins, Workers' Compensation Claims Analyst

When an employee seeks representation on their WC claim, the applicant attorney will file the case with the Workers' Compensation Appeals Board (WCAB). The case will then be assigned an adjudication number. The subpoena should be signed by both the applicant attorney and the employee to authorize release of the employee records.

In some cases, the applicant attorney will have a copy service send a subpoena/request for records on their behalf. If there is no case number, the document request has not been signed, or you were never made aware that the employee retained legal counsel, call the copy service and advise that you cannot release any information until the above criteria is met.

Be sure to notify your carrier that you have received a records subpoena. The subpoena should list the documents the applicant attorney is requesting. Usually it is any unprivileged documents including, but not limited to:

- Employment applications
- Wage statements
- WC claim forms
- Reviews
- Disciplinary actions
- Medical documents

The carrier will also receive their own records subpoena and they will include any medical reports they have on file. You may also call your WC claims examiner for guidance on what documents to release.

Please note, a subpoena is time sensitive and should be handled promptly. If you require additional time to gather the requested information, please call the copy service immediately.

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M&G HOSTING THE SANTA MARIA CHAMBER MIXER!

Contributed by: Sara Holloway, Marketing Coordinator



Join us as we host the Santa Maria Chamber Mixer!

Thursday, June 21st

5:00 - 7:00pm



Morris & Garritano Insurance
 2721 Santa Maria Way, Santa Maria
 (On the side of the Community Bank of Santa Maria building)

Meet our staff and tour our office

Enjoy light hors d'oeuvres, beer, and wine while socializing with other Chamber and community members

Be sure to bring a business card to be entered into the raffle drawings

MORRIS & GARRITANO INSURANCE

With a tradition of excellence in insurance services since 1885, we offer all lines of business and personal coverage with a staff of over 120 professionals.

Our monthly newsletter is where you can find informative articles relating to the Commercial Lines and Employee Benefits industries.

For day-to-day updates and more information about our community and our company, follow us on Facebook, Twitter, Instagram, or LinkedIn. Visit our website, or check us out on Yelp!

Please contact us for more information or questions on anything mentioned in this newsletter.



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