

M&G | exposure

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MESSAGE FROM THE CEO: LIVING OUR MISSION

To be trusted advisors providing peace of mind through meaningful relationships and exceeding expectations for generations to come.

Our Mission Statement is an integral part of how Morris & Garritano does business. We strive to accomplish the first two items on a daily basis, but it is the third element that takes a little more time to achieve. We are committed to remaining an independent agency, dedicated to our clients, for generations to come and one of the ways we can ensure that happens is to expand our shareholder group. For that reason, I am proud to announce the three newest shareholders of Morris & Garritano: Justin Maire, Mark Anelli, and Gabe Garcia.



Justin started his career at the agency 13 years ago and lives our core values each and every day. He has had great success over that time building relationships in our community and has proven to be a key stakeholder in our company.



Mark joined the agency back in 2008 and has proven to be a dynamic leader in our Commercial Lines division. His growth and embodiment of our Core Values make this next step a natural progression in his career.

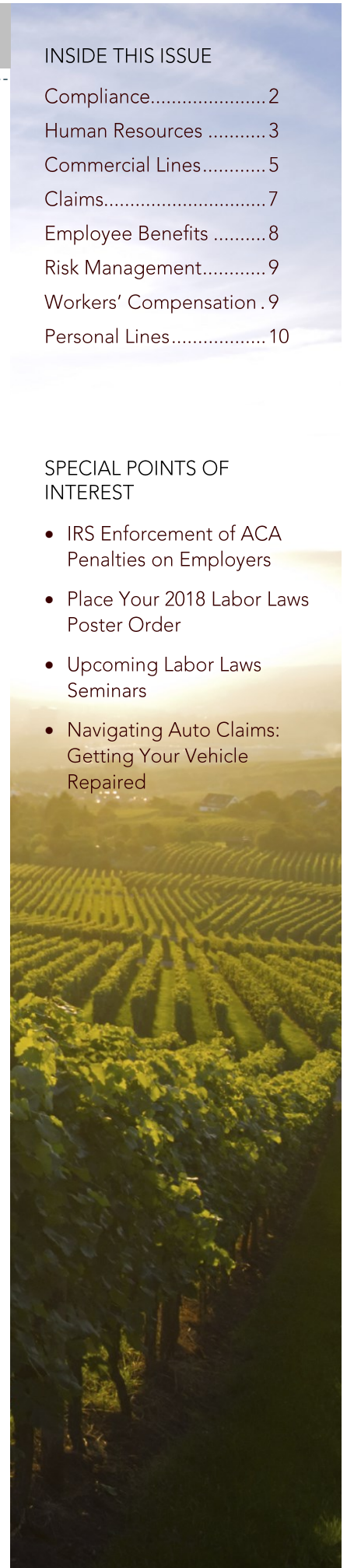


As CFO, Gabe has been integral to our success and growth as a company. As a member of the Executive team he was a key part of forming the Mission, Core Values and Vision that we follow today. Since joining the agency in 2010, he has quite simply been a gamechanger.

We are incredibly excited to have these three invaluable additions to the shareholder group and look forward to the growth and evolution of Morris & Garritano as a result of their combined knowledge, experience, and passion.

SPECIAL POINTS OF INTEREST

- IRS Enforcement of ACA Penalties on Employers
- Place Your 2018 Labor Laws Poster Order
- Upcoming Labor Laws Seminars
- Navigating Auto Claims: Getting Your Vehicle Repaired



IRS ENFORCEMENT OF ACA PENALTIES ON EMPLOYERS HAS BEGUN

Contributed by: Keith Dunlop, Director of Compliance

As of November 1, 2017, the Internal Revenue Service has been issuing Letter 226J to Applicable Large Employers with a proposed calculation of the Employer Shared Responsibility Payment (ESRP) that the IRS believes is owed. The IRS has recently informed the Treasury Department that they now have the systems in place to fully enforce the Obamacare employer mandate and the agency intends to collect at least \$38 billion in penalties through 2018. We have seen penalty notices with proposed fines in excess of \$100,000 on local employers with less than 100 full time employees.

Large employers need to watch for IRS Letter 226J – Proposed Calculation of Employer Shared Responsibility Payment (ESRP)

Review of the Large Employer Mandate

Applicable Large Employers (those with 50 or more full-time and full-time equivalent employees in the prior calendar year) are required to offer medical coverage to their eligible full-time employees and their dependents that meets minimal essential coverage (MEC) and minimal value (MV) requirements. The offer of coverage must also be affordable – meaning the employee's share of the monthly premium does not exceed 9.69% (in 2017) of the employee's household income. Large employers that fail to offer affordable health coverage to at least 95% of their full time employees face penalties under Section 4980H(a) and (b).

How Much Are the ESRP Penalties?

The following chart outlines the possible penalties faced by large employers since ACA enforcement began in 2015:

| | ESRP Penalty Amounts | | |
|------------------|---|---|---|
| | 2015 | 2016 | 2017 |
| Section 4980H(a) | \$2,080 X the total number of full time employees. | \$2,160 X the total number of full time employees. | \$2,260 X the total number of full time employees. |
| Section 4980H(b) | Lessor of \$3,120 X the number of full time employees that received a premium tax credit, or \$2,080 X the total number of full time employees. | Lessor of \$3,240 X the number of full time employees that received a premium tax credit, or \$2,160 X the total number of full time employees. | Lessor of \$3,390 X the number of full time employees that received a premium tax credit, or \$2,260 X the total number of full time employees. |

I Offered Affordable Health Coverage and I Still Received a Penalty Notice; Why?

In many cases, large employers have complied with the ACA in every way, and still received an ESRP penalty notice from the IRS. The primary reason for this is inaccurate annual informational reporting (Forms 1094-C and 1095-C). The annual informational reporting requirement began in 2015, and at the time, the process was not well understood. The vast majority of ESRP letters we have seen were generated based on erroneous information reported on Forms 1094-C and 1095-C. The good news is, this can be corrected.

The ESRP Notice Process

If you disagree with the proposed ESRP, an employer may respond within 30 days of the letter date by completing Form 14764, ESRP Response. In this response, an employer has the opportunity to provide any changes to Forms 1094-C or 1095-C, and provide the IRS with a statement outlining why you disagree with part or all of the proposed penalty. Specific instructions on submitting Form 14764 with the IRS are included in the ESRP penalty notice.

Within 30 days, the IRS is to provide acknowledgment of receipt of Form 14764 and a description of further action. Should the employer disagree with the action, the matter can proceed to a pre-assessment conference with the IRS Office of Appeals. If the employer agrees with the proposed assessment, a final demand for payment will be made by the IRS with Notice CP220J.

Continued on next page

IRS ENFORCEMENT OF ACA PENALTIES...(CONT'D)

Contributed by: Keith Dunlop, Director of Compliance

Steps to Take When an ESRP Letter is Received

The IRS ESRP penalty notice letter should be taken seriously and responded to in a timely fashion.

1. Make note of the response due date and respond timely.
2. Contact your tax professional or attorney for assistance with your response.
3. Review Forms 1094-C and 1095-C for accuracy.
4. Gather all information supporting disagreement with the ESRP letter and be prepared to provide all documentation to the IRS that supports your statement.

An Ounce of Prevention . . .

The enforcement of the employer mandate by the IRS serves as a reminder that the Affordable Care Act remains the law of the land, and Applicable Large Employers will be required to be in full compliance or face stiff penalties. However, employer mandate penalties can be avoided with sound compliance practices including: proper identification and tracking of full-time, part-time, and variable-hour employees, making timely offers of affordable coverage, having competent systems in place for accurate informational reporting, and remaining vigilant and educated on developments in the law.

IT'S TIME TO PLACE YOUR 2018 LABOR LAW POSTER ORDER!

Contributed by: Louise Matheny, Human Resources Consultant

As a Morris & Garritano client, we are happy to provide you with up to five complimentary posters based on your workplace locations. We have both English and Spanish posters available.

By law, California employers must display all required state and federal employment notices. The poster must be placed conspicuously where all employees and applicants can see it. Typical locations are the lunchroom, a predominant hallway, or outside your restrooms.

From a best-practice perspective, old employment law posters should be saved to help prove past compliance, even though it is not required. Posters can be relevant evidence to show that employees were informed of their applicable rights.

You must also post one of the IWC Wage Orders based upon the "main purpose" of your business. Some types of businesses may need to post more than one Wage Order. You can obtain your Wage Order from the CA Department of Industrial Relations, [IWC](#).

Finally, there are circumstances that may require additional posters such as heavy equipment or forklifts, chemical use, and government contracts. Employers with an existing Medical Provider Network must also complete and post an MPN notice. Some cities and counties throughout California require employers to post additional notices based on local ordinances addressing minimum wage, paid sick leave, and other requirements.

To place your poster order or if you have any questions about which posters you may need for your worksite, please call Louise at 597-6365. New posters must be displayed by January 1, 2018.



UPCOMING LABOR LAWS SEMINARS

Contributed by: Louise Matheny, Human Resources Consultant

Human Resource Association of the Central Coast (HRCC)



Tuesday, January 9, 2018
11:30am - 1:30pm
Garden Room at The Madonna Inn
100 Madonna Road, San Luis Obispo, CA 93401

Presenter: Robert Wenzel, Atkinson, Andelson, Loya, Ruud & Romo

Registration: [Human Resources Association of the Central Coast](#)

Fees: Member Lunch = \$25
Guest Lunch = \$30
Non-Member Lunch = \$35
Meeting without Lunch = \$15

San Luis Obispo County EAC



Friday, February 2, 2018
8:30am - 12:00pm (registration opens at 8:00am)
Paso Robles Inn Ballroom
1103 Spring Street, Paso Robles, CA 93446

Presenters: Paul Wilcox & Rafael Gonzalez, Mullen & Henzell



Registration: Please fill out [this form](#) and send to Louise Matheny at lmatheny@morrisgarritano.com or print and mail to:
Morris & Garritano Attn: Louise Matheny PO Drawer 1189 San Luis Obispo, CA 93406

Fees: \$35

San Luis Obispo Chamber of Commerce



Thursday, January 11, 2018
12:00pm - 1:30pm
Sierra Vista Regional Medical Center Auditorium
1010 Murray Ave, San Luis Obispo, CA 93405

Presenters: Susan Waag, LightGabler

Registration: [San Luis Obispo Chamber of Commerce](#)

Fees: Current Member = \$30
Future Member = \$40

Littler Breakfast Briefing Series



Thursday, January 25, 2018
8:30am - 11:30am (registration opens at 7:30am)
The Santa Maria Inn
801 South Broadway, Santa Maria, CA 93454

Presenters: Gary Bethel, Littler Mendelson

Registration: [Littler Event Registration](#)

Fees: \$115

CALCULATING FMLA LEAVE DURING THE HOLIDAYS

Contributed by: Louise Matheny, Human Resources Consultant

Amid the holiday hustle and bustle, you may find that some of your employees take FMLA leave in addition to the standard holiday vacation days. We'd like to provide you with a quick compliance reminder on how to properly calculate FMLA leave as we reach the end of the year.

Calculating FMLA Leave During a Holiday Week

Using Christmas as an example, if an employee gets Christmas Day off as an employer holiday, but also takes the entire work week off for an FMLA reason, you should count the entire workweek as one full week of FMLA leave used.

However, if the employee works any part of that week (e.g., Monday is Christmas, he/she works Tuesday, and is gone on FMLA leave for the remainder of the week), you cannot count the holiday as FMLA leave. You can only count Wednesday, Thursday, and Friday.

In the example above, since Monday was a holiday, there would only be four workdays in that particular workweek, so your employee would use 3/4ths of a workweek of FMLA leave. Alternately, if there wasn't a holiday during that particular week and your employee still only worked one day, they would use 4/5ths of a workweek on FMLA leave.

Calculating FMLA Leave During a Shut Down or School Break

For those businesses that shut down for long stretches of time around the holiday or winter break, the regulations on FMLA leave are clear:

If for some reason the employer's business activity has temporarily ceased and employees generally are not expected to report to work for one or more weeks (e.g., a school closing for two weeks for the Christmas/New Year holiday, summer vacation, or an employer closing the plant for retooling or repairs), the days the employer's activities have ceased do not count against the employee's FMLA leave entitlement.

Even if an employee would not have been able to perform their duties during this break, you cannot count the time against that employee's FMLA allotment.

If you have questions or need further clarification, please feel free to contact Louise Matheny at lmatheny@morrisgarritano.com.



CONSTRUCTION DUAL WAGE THRESHOLDS CHANGING

Contributed by: Barbara Sutton, Senior Coverage Advisor

Effective January 1, 2018, the Dual Wage Thresholds for many Construction Classifications have been changed by the Workers' Compensation Insurance Rating Bureau (WCIRB). In most cases, the change is only \$1.00 or \$2.00, but there are too many affected classifications to list here (they range from concrete or cement work to water mains construction). For many employers, it would make sense to give employees a raise rather than pay the much higher rates below the threshold!

Please contact our office if you would like to discuss your specific situation. Or, if you prefer, you can find these and other important changes through the WCIRB website at <https://www.wcirb.com/content/2018-2019-changes-quick-reference>. Note that, while these changes are effective January 1, policies will not adopt the newly published thresholds until their renewal date.



WORKERS COMP

SB 189 AMENDS WORKERS' COMPENSATION EXCLUSIONS

Contributed by: Martine Domingues, Commercial Lines Operations Manager

Effective January 1, 2017, AB 2883 established parameters regarding when a business owner can be excluded from workers' compensation coverage. Recently SB 189 was signed into law, making amendments to that bill. Below is a summary of the amendments and how they may affect you and your business.

For the 2017 calendar year, carriers, at their discretion, may backdate owner exclusions with a signed waiver.

- Some carriers are automatically back dating waivers, others are doing it by request on a case by case basis.
- As of January 1, 2018, backdating will be limited to 15 days from the date the waiver was received by the carrier.

Effective July 1, 2018, for policies renewing on or after July 1, 2018:

Trusts

- A person who holds the power to revoke a trust, with respect to private corporations, LLC's or partnerships held in trust, can be excluded with a signed waiver.

Corporations

- The minimum ownership has been reduced from 15% to 10%. If the officer/ member of the board owns at least 10% of the stock they qualify to be excluded.
- Exception – if you own at least 1%, are an officer or member of the board, have a health insurance policy, and your parent, grandparent, sibling, spouse, or child owns at least 10% of the issued stock you may be excluded with a signed waiver.

Professional Corporations

- Owners can be excluded (no matter the percentage of ownership) as long as they certify that they have health insurance and sign a waiver waiving their rights to WC.
- Waiver forms for this new type of certification are still being created, copies should be provided by carriers in the coming months.

Co-Ops

- Officers or Members of the board can waive their rights to WC with a signed waiver and certification they maintain health and disability insurance.
- Waiver forms for this new type of certification are still being created, copies should be provided by carriers in the coming months.

Should you have questions regarding these changes, please contact your Account Manager for assistance.

Navigating Auto Claims

A series by Heather Ross, Claims Advocate

GETTING YOUR VEHICLE REPAIRED

Last month, we discussed the steps to take in the event you're involved in an auto accident. Now that you've gotten the claim turned in, let's talk about getting your vehicle repaired.

Shortly after your claim is turned in to the insurance company, an adjuster will contact you to get your statement regarding the accident and to begin the repair process. Even if you've already gotten an estimate from a body shop, the adjuster will usually want to send out an independent adjuster (sometimes called an "independent appraiser") to inspect your vehicle damage.

After the independent adjuster (IA) inspects the vehicle, he/she will create a detailed estimate for the repair and send it to the company adjuster for review. If the vehicle is repairable, a check will be issued for the cost of repairs, less your deductible. Insurance companies sometimes have relationships with specific body shops to streamline the inspection and repair process, but you are not required to use one of these shops to repair your vehicle.

Depending on the situation, the company might issue the check jointly to both you and the body shop, or may issue payment to either one of you separately. Sometimes, if you have a loan on your vehicle, the company may include your lienholder as a payee on the settlement check.

If you have rental car coverage, the company will either set up a reservation with a local rental provider, or ask you to submit rental receipts for reimbursement. The company will generally only pay for a rental while your vehicle is actually being repaired; for that reason, it's usually better to schedule repairs at the beginning of a workweek.

Frequently, the cost of repairs ends up exceeding the original estimate; usually it's because the damages are more than what could be confirmed by visual inspection alone. If that's the case, the body shop will request a supplemental payment (commonly called a "supplement") from the insurance company. Supplements are typically paid directly to the body shop.

If the vehicle is not repairable, the claim will be referred to a total loss adjuster for handling and resolution. That, however, will be our topic for next month's M&G Exposure.

PLANNING NOW FOR YOUR FSA IN 2018

Contributed by: Celia Silacci, Employee Benefits Department Manager

Flexible Spending Accounts (FSAs) allow employees to use tax-free dollars to pay for their medical expenses not covered by other health plans. Now is the time for eligible employees to begin planning to utilize their employer's health FSA during 2018, if one is offered. Interested employees must decide how much they want to contribute through payroll deductions before the plan year begins. Self-employed individuals are not eligible.

The maximum amount an employee is allowed to contribute during the 2018 plan year is \$2,650, an increase of \$50 since 2017. Should the plan allow it, the employer may also contribute to an employee's FSA.

The funds can be accessed throughout the year to pay for qualified medical expenses such as co-pays, deductibles, dental and vision care, eyeglasses, hearing aids, and other medical products.

There is a use-it-or-lose-it provision, in which employees must incur eligible expenses by the end of the plan year or forfeit any unspent funds. However, under a special rule, employers may offer their employees more time through either a carryover option or grace period.

With the carryover option, an employee can roll over up to \$500 of the unused funds to the next plan year. With the grace period option, an employee has until two and a half months after the end of the plan year to incur eligible expenses. An employer has the right to offer either of these options, but not both, or offer none at all.



PROTECT YOURSELF DURING FLU SEASON

Contributed by: Steve Gray, Employee Benefits Advisor

During flu season, influenza is a serious concern in the workplace. You work closely and come in direct contact with others frequently, which means germs and bacteria can spread easily from person to person.

The best strategy for reducing your risk of becoming ill with a virus is to avoid crowded settings and other situations that increase the risk of exposure to an infected individual. If you must work in a crowded environment, minimize your time there and observe good hygiene and distancing precautions, such as the following:



- Stay home from work when you are sick.



- Wash your hands frequently with soap and water for at least 20 seconds or use a hand sanitizer.
- Avoid touching your nose, mouth, and eyes.
- Cover your coughs and sneezes with a tissue.



- Avoid close contact with co-workers and customers (stay six feet away whenever possible).
- Keep frequently touched surfaces (telephones, computer keyboards, etc.) clean.
- If you need to wear gloves, wash your hands after removing them.
- Try not to use other workers' supplies, phones, computers, desks, offices, work tools, etc.
- Minimize group meetings when possible – use e-mail, phones and text messaging instead. If meetings are unavoidable, avoid close contact with others and ensure that the meeting rooms are properly ventilated.
- Limit unnecessary visitors in the workplace.

You can also take care of your own body by getting enough sleep, eating a nutritious diet, exercising regularly and reducing your stress levels so that you can stay healthy and avoid the flu.

FEDERAL REQUIREMENTS FOR ILLNESS & INJURY REPORTING NOT APPLICABLE IN CA

Contributed by: Michael Schedler, Loss Control Consultant

The Farm Employers Labor Service's (FELS) Sacramento office has received inquiries concerning federal Occupational Safety and Health Administration (OSHA) regulations that became effective January 1, 2017. These regulations require employers in federal OSHA jurisdiction states to electronically submit Log 300 records of injuries and illnesses, with the intent of publishing these reports on OSHA's Internet page. The new federal regulation also imposes new anti-discrimination requirements intended to prevent employers' adoption of safety policies that could be construed to discourage reporting of workplace injuries and illness.

California is one of 26 U.S. states to exercise the option provided in the federal Occupational Safety and Health Act of 1970 allowing states to establish their own regulatory plans for occupational safety and health. These plans generally call for state-plan states to establish their own regulatory agency (Cal/OSHA, in California's case), to promulgate regulations that protect employees as effectively as federal regulations and to operate enforcement programs that are as effective as federal enforcement. States that have not done so are under the jurisdiction of federal OSHA.

Employers in state-plan states are not obliged to comply with new federal occupational safety and health rules until their state's regulatory process establishes regulations that are comparable to federal regulations.

Since Cal/OSHA has not yet adopted a regulation to implement the federal Log 300 reporting and anti-discrimination regulation, **California employers do not need to comply with the federal regulation.**

This regulation is the subject of ongoing litigation and federal OSHA has indicated it is reconsidering certain aspects of the rule. FELS will inform you of future developments.

Source: Little, B. (2017 December 1). *Federal Requirements for Illness & Injury Reporting Not Applicable in CA*. Retrieved from www.fels.net

VACATION PAY, SICK LEAVE, AND DISABILITY BENEFITS

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



My employee is requesting vacation pay, but he is also receiving temporary disability benefits from the WC carrier. Is that legal?

Unless outlined in your company policy or regulations governing the use of sick leave or vacation time for an industrial injury, an employee may take accrued vacation time or sick leave without affecting his or her right to temporary compensation (temporary disability benefits). These fringe benefits are earned by the employee, and the employee may not be penalized for using them. We do recommend you let the claims examiner know if you pay the employee the requested accrued benefit.

12 DAYS OF HOLIDAY SAFETY

Contributed by: Marie Bloomstine, Personal Lines Department Manager

As Christmas and New Year's approach, we hope that you get to enjoy this time with your friends and family. The holidays are a time for relaxing, reminiscing, and celebrating. It is important, however, that you celebrate responsibly. Here are a few tips on how to enjoy the festivities while staying safe.



Source: nsc.org

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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