# Key Labor and Employment Issues Affecting Alaska Native Corporations *By  Walter T Featherly III Partner, Holland & Knight*

Alaska Native Corporations (ANCs) are subject to some but not all laws governing the relationship between ANCs (and their subsidiaries) as employee and their employees. For example, similar to tribes, ANCs are exempt from the definition of an "employer" under Title VII of the Civil Rights Act of 1964. This exemption applies to ANCs as well as their subsidiaries and other affiliates so long as the ANC related partnerships, joint ventures, trusts, or affiliates in which an ANC owns not less than 25 percent of the equity of the subsidiary or other affiliate (such as a joint venture).

ANCs are similarly exempt from any federal statute that adopts the Title VII definition of employer. For example, the Genetic Information Nondisclosure Act (GINA) explicitly adopts Title VII's definition of employer, meaning that ANCs are exempt from GINA restrictions.

Despite the Title VII exemption, numerous other federal, state, and local laws apply to ANCs and their affiliated entities. Such laws include the Americans with Disabilities Act (ADA), the Age Discrimination in Employment Act (ADEA), and the Equal Pay Act (EPA).

Another statute to which employers are subject is Section 1981 of the Civil Rights Act of 1866, which courts have held is a separate statutory basis for prosecuting an employment race discrimination claim.  Unfortunately, it is not settled law whether ANCs can be held liable for race discrimination claims brought under Section 1981. One appellate court has held that Title VII's express exemption of ANCs from its coverage operates to preclude liability from being imposed in any related context, including Section 1981 claims, while another appellate court has held that ANCs are subject to § 1981 claims.

ANCs (and their subsidiaries) are also subject to many state and local laws. For example, as to their employees in Alaska, ANCs are subject to the Alaska Wage and Hour Act (AWHA) and the Alaska Human Rights Act, neither of which excludes ANCs. (Although the Alaska State Commission for Human Rights (ASCHR) does recognize that ANCs are entitled to grant preferences to their shareholders in their employment policies and practices.)

In summary, the patchwork of laws to which ANCs are subject (or to which they are not subject) at the federal, state, and local levels is intricate and complex, requiring ANCs to create, adopt, and follow carefully researched employment policies and procedures that are tailored for each of the jurisdictions in which ANCs have employees.

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