

# Defining Our Global Duty of Care to Mobile Employees

*Legal issues  
associated with  
keeping  
employees on  
international  
assignments  
safe and healthy*



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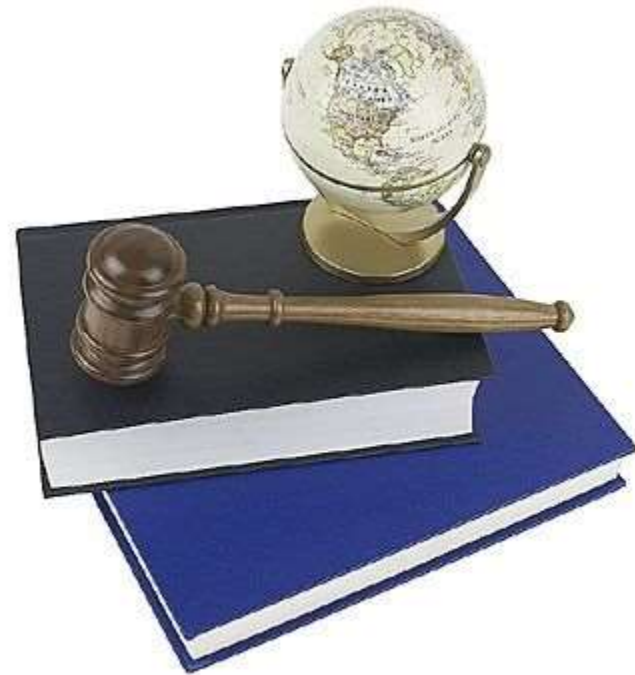
# Roadmap



- Safety and Health Laws
- Policies, Contracts, and Other Documents
- Duty of Care Laws
- Workers' Compensation
- Litigation
- Family Members
- Medical/Family Leave
- VISA/Other Naturalization Issues
- General Advice
- Duty to Protect Individual Employees Overseas: Context
- Draw 4 Key Distinctions

# Safety and Health Laws

- OSHA and OSHA Record-keeping only covers:
  - U.S. and U.S. Commonwealth Sites
  - Employees (not family members)
  - Regulatory agencies in country where incident occurs usually regulate legal and compliance issues



# Policies, Contracts, And Other Documents



- Company expatriate policies, benefits policies, and other policies
- Expatriate assignment letters
- Employee contracts
- Employer documents covering employee family members
- Insurance policies

# Duty of Care Laws

- Some country-specific and other international laws (ex. Belgium) cover business travelers working in that country regardless of magnitude or duration of work
- Other countries, such as Australia, cover their citizens who work abroad or during leisure when they are abroad. In Australia, employees can also be awarded damages in excess of workers' compensation claims in negligence lawsuits, including possible personal liability for managers



# Workers' Compensation

- Some states' and countries' workers' compensation laws cover injuries and illnesses while on international employment assignments
- PA Workers' Comp Law covers employees working outside the state, including outside the U.S. when employees are under a contract of hire made in PA under certain circumstances





# Litigation



**Litigation can therefore occur in multiple countries, depending upon the circumstances and the specific laws**

# Family Members

- Employees who contract a disease during international assignments create a unique and difficult situation for themselves, their family, and their employers



# Family Members (cont'd)

- Health repercussions for employees
- Legal repercussions regarding family members and others
- Notification issues regarding co-workers and others
- Preventive issues
- Inoculations



# Medical and Family Leave Issues

- Leave issues when expatriate employees are injured or become ill
- FMLA is not required for U.S. employees working outside of the U.S.
- Leave laws of host country may not apply to employee, either



# Visa and Other Employment Issues

- Visa issues when employees need to evacuate a country
- Disruption in length of service in a country may jeopardize employee visa or other documentation
- Job elimination or transfer may cause employment issues such as severance restructuring in numerous countries



# General Advice



- When preparing expatriate documents and policies, anticipate emergencies, disruptions, illnesses, and other impediments to creating a successful work assignment
- Ensure expatriate documents and policies do not include promises
  - e.g. “2-4 year assignment”
- Create a swift-acting global crisis team with training, contact information, and protocol in place to be ready at any time and for any situation

# Duty to Protect Individual Employees Overseas: Context



- Expatriates and business travelers vs. locals
- Danger zones vs. serious injuries in safe places
- Bet-the-company litigation vs. OSHA-like claims and workers' compensation claims

# Draw 4 Key Distinctions



## Distinction #1

Safety/security issues *versus* legal issues



# Draw 4 Key Distinctions (cont'd)



## Distinction #2

Health/safety regulation *versus* personal injury litigation

# Draw 4 Key Distinctions (cont'd)



## Distinction #3

Local employees *versus* expatriate and business travelers

- *Work hours vs. 24 hours*
- *Capped local worker injury claims*

# Draw 4 Key Distinctions (cont'd)



## Distinction #4

Personal injury lawsuits *versus* workers' compensation claims

- Host-country claims *versus* home country or HQ country (U.S.) claims
- Foreign voluntary workers compensation coverage *versus* workers' compensation bar defense
- Exclusive remedy agreement (election of remedies) *versus* personal injury waiver

# In Closing



*ANY QUESTIONS?*