

2009 HOSPITALITY LAW CONFERENCE

New Rules for a New Reality



Transition of Properties in a Distressed Economy

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Transition Agreements

- Consideration of Employees
- Sellers Perspective
- Purchasers Perspective
- Concept, Drafting, Implementation



Employee Status

- Termination of Employment Relationship
- “Retain” or “Hire” Employees
- Application Process
- I-9 Concerns
- Employment Files and Records
- Probationary Period



Benefit Issues

- Accrued Benefits
- Earned Benefits
- Communication with Employees
- “Stay On” Bonuses
- Health Insurance Coverage



WARN Act Issues

- When Applicable
- Counting Part-time Employees
- Recent Hires
- Whose Obligation
- 90 Day Rolling Period
- Broad Definition of Employer
- Hire Enough So Not to Trigger



Labor Relations Issues

- Analyze and Review CBA
- Successors and Assigns Clause
- Duty to Bargain
- Recognition Agreement
- Notification to Union



Labor Relations Issues

- “Perfectly Clear’ Doctrine
- Right to Negotiation Own CBA
- Effects Bargaining



Liabilities

- Pension Withdrawal Liability
- Ongoing Employment Litigation
- Indemnification Clauses
- Severance Obligations
- Releases and Covenants Not to Sue
- Older Worker Benefits Protection
- Adverse Impact Analysis



Employee Contracts

- Review of Terms
- Rights During Transition
- Accelerated Benefits
- Bonuses
- Constructive Termination
- Non-Competition Restrictions
- Solicitation of Employees



Due Diligence

- Employment Handbooks and Policies
- Active Litigation
- FLSA Exempt Statuses
- Immigration Visa Status
- Affirmative Action Plans



Due Diligence

- Contracts for Employment Services
- Independent Contractors
- Erosion of “At Will” Statues
- Employee Indemnification Safeguards



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