



Human Resources

by Donald R. Lee

Challenging times for hoteliers necessitate access to timely legal advice

*Another great article from The Rooms Chronicle®, the #1 journal for hotel rooms management! ***Important notice: This article may not be reproduced without permission of the publisher or the author.*** College of Hospitality and Tourism Management, Niagara University, P.O. Box 2036, Niagara University, NY 14109-2036. Phone: 866-Read TRC. E-mail: editor@roomschronicle.com*

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As we discussed in an article in the November/December 2009 issue of *The Rooms Chronicle*®, 2009 ushered in a host of new employment laws with more on tap for 2010. Many of these laws and regulations are cumbersome, encompassing, and carry stiff penalties for violations by employers. And they are not easy for the lay person to fully understand.

Some new challenges in 2010

In 2009, the ADA Amendments Act was enacted which expanded the definition of “disabled,” thus making more employment decisions subject to valid discrimination claims. Congress amended the Family and Medical Leave Act to enable employees to take leave under more circumstances and for longer amounts of time. The Lilly Ledbetter Fair Pay Act makes it more difficult to successfully argue that a claim of pay discrimination is untimely. These are just a few of the new employment laws on the books from 2009. Still lurking in 2010 are laws that would make it easier for unions to organize and laws requiring employers to provide additional leave to employees, some of it paid leave.

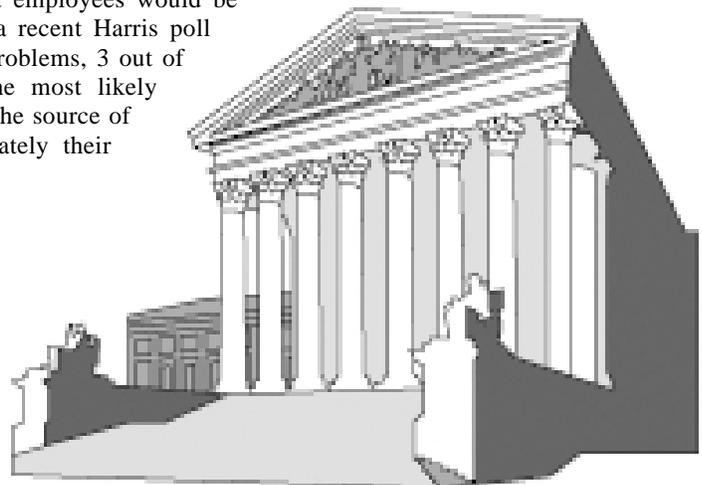
As if the change in laws isn’t enough to contend with, the Obama administration intends to step up enforcement of the laws already in place. In fact, Linda Solis, the U.S. Secretary of Labor, has said, “Make no mistake about it: The Department of Labor (DOL) is back in the enforcement business.” Unfortunately, Ms. Solis rejects the idea that what employers need to add jobs and improve their bottom-line is a favorable environment for companies to do business, not a “gotcha” mentality by the DOL that could put even well-meaning employers in hot water. In 2010 and beyond, hoteliers can expect stepped-up enforcement of all employment laws, with a special focus on OSHA and wage/hour claims.

The Equal Employment Opportunity Commission (EEOC), which investigates discrimination charges, has also stepped up its efforts. In 2009, 93,277 charges of workplace discrimination were filed with the EEOC, the second highest total ever. That year, employers paid over \$376 million dollars to resolve charges filed by alleged discriminates.

Of course, employers are less likely to be in front of the DOL, EEOC, or a state government agency if an employee hasn’t complained. With the nationwide unemployment rate at 10%, most would think that employees would be happy to just have a job. That isn’t true. When a recent Harris poll asked people who was at fault for their financial problems, 3 out of every 10 said their employer was to blame. The most likely reason? In the eyes of employees, the employer is the source of most policies that affect compensation and ultimately their personal finances.

What does this mean for hoteliers?

The implications that these new laws and regulations have for employers is extensive. Hoteliers can expect new and more onerous laws on the books in the future, stepped-up





enforcement of new and existing laws as governments attempt to balance their out of whack budgets, and most certainly, unhappy employees in an underperforming economy. These are challenging times for hoteliers to make employment decisions.

Some of these employment-related decisions are best not made without a thorough understanding of the implications and potential impact that each carry. But how is a hotel manager who is focused daily on ensuring the highest levels of guest satisfaction, while meeting bottom-line profitability, supposed to find the time and resources to educate him or her on the myriad of sweeping legislation that will undoubtedly affect their ability to control their properties and lead their staffs?

This is where having reliable and knowledgeable experts at your fingertips who can render timely and experienced counsel is critical to avoiding the potential pitfalls for employers associated with such extensive employment requirements.

While large chain and corporate-managed hotels may access to legal counsel through their brand's headquarters office, most independent and franchised properties do not enjoy such a benefit. Unless a hotel company or individual property chooses to pay an annual retainer in order to maintain access to outside legal counsel, obtaining immediate assistance, let alone a call back, from a qualified attorney can be extremely difficult and certainly nerve-racking. And legal retainers for unknown eventualities can be expensive. For hoteliers faced with this dilemma there is an optimal solution.

For those who feel that access to an employment lawyer in making these decisions would be beneficial, please read the hotline offer enclosed in this issue of TRC.

The solution to assist hoteliers

The Rooms Chronicle® has established a strategic agreement with Ford & Harrison LLP, one of the nation's leading management-side labor and employment law firms, to make high quality legal advice readily available at an affordable cost to hoteliers who seek immediate guidance on employment and labor law matters. Ford & Harrison employs more than 200 labor and employment lawyers in 18 offices across the United States to provide clients with sound legal advice, practical counseling, and excellent client service. They specialize in serving the needs of hospitality companies, among others. Please refer to the enclosed brochure for full details about this unique and *extremely cost-effective* offering available especially for TRC subscribers.

In brief, participants will be provided up to 30 minutes of phone access to a Ford & Harrison lawyer per month for twelve months. Upon the firm's receipt of your acceptance of the offer and remitted payment, Ford & Harrison will immediately send you the hotline phone number by email (or phone if you do not have email). At that point, you may call in whenever you have an employment law issue. The annual cost to take advantage of this offer is only \$100 for TRC subscribers. This essentially grants your hotel access to a qualified Ford & Harrison attorney for the equivalent of only \$8.34 per month for up to 30 minutes. Participants who choose to engage Ford & Harrison's services beyond the allotted time may retain the firm at a discounted rate of 10% off standard rates.

Don't make unwitting employment decisions in the dark that can result in negative outcomes or have long-term ramifications for the hotel and management. Seek reliable and qualified counsel to best preserve the interests of the hotel, ownership, management, and its guests. ✧

(Donald R. Lee is an attorney and partner at Ford & Harrison LLP, one of the nation's largest labor and employment law firms with more than 200 lawyers working in 18 offices located throughout the country. Ford & Harrison represents hoteliers and other hospitality employers in labor, employment, immigration and employee benefits matters. Don has extensive experience representing management in labor law matters with a focus on collective bargaining, union organizing campaigns, arbitrations, union avoidance training, and defending claims of unfair labor practices. Questions or comments may be sent to Don at dlee@fordharrison.com.)

