

EMPLOYMENT LAW UPDATE

Relationship-Driven Results

March 27, 2020

The Coronavirus Aid, Relief and Economic Security Act (“CARES Act”) was signed into law by President Trump today. There are numerous sections of the CARES Act that impact California employers. These sections include:

Expanded Unemployment – Pandemic Unemployment Assistance Program

The law will expand unemployment in several ways, including by creating a temporary Pandemic Unemployment Assistance program that will pay out affected workers who are not traditionally eligible for benefits through December 31, 2020. This includes independent contractors, the self-employed, those with limited work history, and others. The CARES Act will pay collecting workers an additional \$600 per week on top of their regular state benefits for up to four months and provides as many as 13 more weeks of payments to workers whose state benefits end before they can return to work.

Paycheck Protection Program

The Paycheck Protection Program is designed to incentivize struggling small- and medium-sized businesses to continue paying workers, providing benefits by making small business loans easier to obtain, and by allowing loans to be partially forgiven when the proceeds are used to cover salaries, insurance, rent, and other costs. Employers with fewer than 500 workers would be forgiven the amounts they put into payroll costs and mortgage payments and interest for eight weeks after loan origination, with some limitations. This forgiveness is also available to businesses that rehire workers who have already been laid off.

Business Loans

The law also provides \$500 billion in non-forgivable loans to businesses under certain conditions, including that they maintain their current staffing through September 2020 “to the extent practicable” and do not engage in stock buybacks “unless contractually obligated.”

Employee Retention Tax Credit

The CARES Act also provides an employee retention tax credit. This tax credit is not available to employers that receive loans pursuant to the Paycheck Protection Program. The employee retention tax credit provides an eligible employer with a refundable payroll tax credit for 50% of the wages paid by the

We are dedicated to providing the highest quality legal services and obtaining superior results in partnership with those who entrust us with their needs for counsel.

We enjoy a dynamic and empowering work environment that promotes teamwork, respect, growth, diversity, and a high quality of life.

We act with unparalleled integrity and professionalism at all times to earn the respect and confidence of all with whom we deal.

employer during the COVID-19 crisis and applies to wages paid between March 13, 2020 and the end of the year.

Payroll Taxes

The CARES Act also provides that an employer may defer payment of its portion of Social Security taxes it would otherwise be obligated to pay. Any deferred payroll taxes would be required to be paid over the next two years – with half of the owed amount being required to be paid by December 31, 2021, and the remaining half by December 31, 2022.

Amendments to the Families First Coronavirus Response Act

The CARES Act amends the emergency medical and family leave provisions of the Families First Coronavirus Response Act to extend benefits to certain employees who have been laid off but are ultimately rehired. The law provides that employees eligible for up to 12 weeks of emergency family and medical leave *include* those who were laid off March 1, 2020 or later, had worked for the employer for at least 30 of the last 60 calendar days prior to the employee’s layoff, and were subsequently rehired by the same employer.

Additionally, the CARES Act clarifies that employers: (1) need not pay more than \$200 per day and \$10,000 in the aggregate for each employee taking emergency family and medical leave; (2) need not pay more than \$511 per day and \$5,110 in the aggregate for each employee for emergency paid sick leave taken because the employee is subject to a federal, state, or local order to quarantine or isolate due to COVID-19 (qualifying reason one), the employee has been advised by a health care provider to self-quarantine due to COVID-19 (qualifying reason two), or the employee is experiencing symptoms of COVID-19 and is seeking a medical diagnosis (qualifying reason three); and (3) need not pay more than \$200 per day and \$2,000 in the aggregate for each employee taking emergency paid sick leave because the employee is caring for someone else who is subject to a federal, state, or local order to quarantine or isolate or has been advised by their health care provider to self-quarantine (qualifying reason four), the employee is caring for his/her child whose school is closed or child care provider is unavailable due to COVID-19 (qualifying reason five), and the employee is experiencing any other substantially similar condition specified by the Secretary of Health and Human Services in consultation with the Secretary of the Treasury and the Secretary of Labor.

Areas of Practice

Appellate

Business Litigation

Civil & Trial Litigation

Employment & Labor

Personal Injury

Product Liability

Professional Liability

Real Estate Litigation

Restaurant & Hospitality

Retail

Transactional & Business Services

Transportation

San Diego | Los Angeles | Phoenix | Tucson

www.pettitkohn.com

This is Pettit Kohn Ingrassia Lutz & Dolin PC’s employment update publication. If you would like more information regarding our firm, please contact Tom Ingrassia, Jennifer Lutz, Ryan Nell, Shannon Finley, Jennifer Suberlak, Blake Woodhall, Carol Shieh, Shelby Harris, Brittney Slack, or Rio Schwarting at (858) 755-8500; or Grant Waterkotte, Tristan Mullis, Andrew Chung, Jennifer Weidinger, Rachel Albert, or Mihret Getabicha at (310) 649-5772.