



From all the staff at Allegiant Management Corporation, we would like to extend our wishes for a Happy 4th of July to you and your families. It is our hope that all Americans will reflect on their heritage, the sacrifices of others and stand vigilant for the freedoms which we all cherish.

We will never forget!

"It is our duty still to endeavor to avoid war; but if it shall actually take place, no matter by whom brought on, we must defend ourselves. If our house be on fire, without inquiring whether it was fired from within or without, we must try to extinguish it."

- Thomas Jefferson 1798

Workplace Rules & Discrimination

- Don't let your workplace rules lead to a discrimination suit

The inconsistent administration of common work place rules leads to many discrimination lawsuits. Therefore the best policy for supervisors is to treat all employees equally. There were a large number of cases tried in just the last year where an employee in a protected classification was able to show that they were discharged for violating a workplace rule, while other employees who were not a minority or in a protected classification were only given a warning for the same violation.

One of the most common situations is when a company has been lax on enforcing a particular work place rule, but then decides it must start enforcing the rule because of recent problems. The best course of action in this type of situation is to put everyone on notice. Supervisors should either approach each individual or have a group meeting or even send out a memo to all stating what the company policy is and what the penalties for violating that rule could be. One such recent case involved a company who had been lax on their enforcement of work place gambling.

The company's new Human Resource Manager quickly found a variety of gambling was prevalent in the work place including football pools and fantasy sports leagues. The manager found many employees were spending several hours a day on-line participating in the fantasy leagues. So the company sent out a memo to all employees that this type of behavior would no longer be tolerated and requested everyone to cease all forms of gambling on company time. One African American employee who continued to run a pool at work was subsequently discharged. At trial, he stated that he was (see pg 2)

Open Enrollment for Medical Insurance



The month of August is open enrollment for Allegiant's medical insurance program. During the open enrollment period, eligible* employees may change, add or drop medical coverage. All changes become effective August 1st, therefore, employees should notify Allegiant of their change requests no later than July 26th.

To request a change form or an enrollment kit, employees must call Tami Dolan or Janice Roy at (603) 964-1109 or (800) 525-2901, Monday through Friday. If no changes desired to the current coverage, NO response is required.

A notice indicating the new rates and additional information will be included with employee paychecks in early July.

* Elections are subject to determination of eligibility as required by the Plan. Employees must routinely work a minimum of twenty hours per week to meet eligibility requirements. Other eligibility requirements may apply.

Supreme Court Struck Down DOL's FMLA Notice Rule

This case, first referenced in our December newsletter, involved a worker who had Hodgkin's disease and took seven months of unpaid sick leave after one year on the job. She then requested additional leave or the opportunity to work part time. The company fired her after using all the time allowed, but she sued stating the seven months of leave should not have counted as Family & Medical leave because the company failed to notify her that the leave was being counted as such, per the DOL requirement that an employees' allotted 12 weeks of leave starts only after the employer notifies the employee that their time off counts as Family & Medical Leave.

The U.S. Supreme Court struck down the Department of Labor's requirement noting that the DOL rule conflicts with the statute because it grants more leave than allowed under the FMLA regulations and because it automatically punishes employers "by denying any credit for leave already taken before the notice was given. (*Ragsdale v. Wolverine Worldwide Inc.*)

The court stated that rather than just providing additional leave when an employer fails to give FMLA notification, the DOL rule establishes "an irrebuttable presumption that the employee's exercise of FMLA rights was impaired" and that the employee deserves 12 more weeks of leave. For this reason the rule is invalid because it alters the FMLA in a fundamental way: It relieves employees of the burden of proving any real impairment of their rights or that the individual was harmed by the lack of notice, the court noted.

Some speculate this ruling could lead to further lawsuits if plaintiffs are able to show they were harmed by an employer's failure to provide notice that leave is being counted as FMLA. In such a case a plaintiff would have to show that they would have done something differently had they known the leave was counting towards the FMLA entitlement. ☞



Payroll Processing

Our offices will be closed Thursday, July 4th, 2002 in observance of Independence Day. All paychecks for that week will be delivered and dated for Wednesday July 3rd. Payroll hours need to be called in to our office by noon on Monday to allow us the time needed to generate payroll. All payroll packages will be shipped or mailed on Tuesday. Thank you for your assistance in this matter.

Workplace Rules (con't from pg. 1)

treated differently from other non-minority employees who were also running or participating in the pools. The company prevailed in the suit, because the employee could not name anyone who was treated differently nor did he give the names of other employees who were supposedly still running the pools.

The company was also found not liable for discrimination because it put everyone on notice prior to disciplining or discharging anyone for violating the rule. The final point to remember is that the law does not require employees of a protected classification such as pregnant employees or minorities be given preferential treatment, but simply they be treated the same as non-minority employees. ☞



Is the Customer always Right? A customer received the following notice: "Sorry sir, we cannot fill your order until your previous order is fully paid for." He sent the following reply: "Cancel my order. I can't wait that long."



Allegiant Management Corporation

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(Content herein is in no way intended to be legal advice, such should be obtained directly from a lawyer)

Can Cleaner Employee Workspaces Reduce Sick Time Losses?



The workplace desk averages 400 times more germs than does the closest toilet seat, according to a study funded by the Clorox Co. In the study, a microbiologist traced levels of germs, in the form of disease causing bacteria, in office settings in New York, San Francisco, Tampa, Fla., and Tucson, Ariz. Among the 12 types of surfaces studied, the three with the highest germ counts were an employee's telephone, desktop, and computer keyboard. Toilet seats actually ranked lowest in germ volume, behind such other hot spots as the fax machine and handles on water fountains and microwave ovens, according to the study. ☞