



LEGAL ALERT

8001 Irvine Center Drive, Suite 850, Irvine, CA 92618 (949) 727-0290 e-mail: info@japanuslaw.com

This Legal Alert Newsletter is prepared as a service to provide our clients and professionals with information about new legal developments, important legal concepts and practical information. Our business legal services include experienced and aggressive professional representation, as well as proactive business planning for risk management. The information provided in this newsletter is for information purposes only and does not constitute legal advice.

Minimum Pricing

The 6/07 decision by the U.S. Supreme Court allows manufacturers to set minimum pricing rules for retailers and such rules will not be automatically illegal under the antitrust rules. The U.S. Supreme Court ruled in *Leegin Creative Leather Products, Inc. v. PSK, Inc. dba Kay's Kloseit* that the "rule of reason" should apply to vertical price fixing agreements. This minimum price rules may be upheld if they are reasonable.

Collections

Businesses and banks are far more likely to be successful in collections of past due accounts if they begin debt collection with lawyers immediately. Sales are meaningless unless your company is paid. Immediate action is critical, especially during economic downturns. Please contact us if you need assistance with collection. We have successfully collected millions of dollars for our clients, including manufacturers, distributors, banks and sellers.

Protect Your Assets

California Seizure of Assets

California's "unclaimed property" law generates about \$400 million in annual revenue for the state. Assets (including bank accounts, stock accounts, escrow accounts, insurance) that are not claimed, inactive or have been forgotten can be seized by California. Notices to the public of unclaimed property were given in the past, but have diminished due to reduced spending on notices to owners. The time to claim property has been reduced to only three (3) years. Please check the California Controller's website at www.sco.ca.gov and click on the line for "unclaimed property" to find out if you are owed any money. You may also call the Controller's office at (800) 922-4647.

New Mileage Rate

The IRS announced that from 1/1/08, the new rate of 50.5 cents per mile will apply to reimburse employees for business use of a car, an increase from the 2007 rate of 48.5 cents per mile.



Employment

Free Government Forms and Posters

You can download most required Federal and California state forms and posters for free. Failure to display all required Federal and State posters can result in a total of \$7,500 in fines.

New I-9 Form (Employment Eligibility Verification):

www.uscis.gov/files/form/i-9.pdf

Form 12/26/07, employers must use the new I-9 Form, or may be subject to penalties.

U.S. Labor Department:

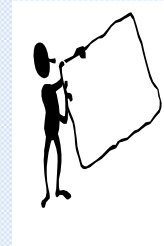
www.dol.gov/osbp/sbrefa/poster

Effective on 7/24/07, Federal minimum wage increased to \$5.85/hr.

California:

www.dir.ca.gov/WP.asp

California has many mandatory labor law posters, including the updated Unemployment Insurance poster. Effective 1/1/08, the California minimum wage is \$8/hr.



Cell Phones



Effective 7/1/08, California law will require the use of "Hands-Free" cell phones while driving motor vehicles.

If your employees drive and talk on company business, please update your Employee Handbook to incorporate this new law and inform employees about new company policy. From 7/1/08 in California, teenage drivers under 18 yrs. are prohibited from using any mobile device while driving. (The law does allow hand-held phones to be used to contact police or fire departments.)

Mandatory Sexual Harassment Training

On 8/17/07, the California Fair Employment and Housing Commission's ("FEHC") final Sexual Harassment Training & Education Regulations were approved and became effective. New regulations provide that all employers who employ or engage fifty (50) or more employees or independent contractors anywhere in California or elsewhere are covered by the mandatory training law. The training requirements are limited to only those supervisors who are in California; and the harassment training must be at least two (2) hours every two (2) years.



Tax Notice

New Required Notice to Employees of Earned Income Tax Credit

Effective 1/1/08, employers must provide a new written notice to employees of the employee's right to take an Earned Income Tax Credit on their federal tax returns. The notice must be hand delivered or mailed to employees within one (1) week before, after, or at the same time W-2 or 1099 forms are delivered. Employers cannot satisfy the new notice requirement simply by posting the notice on an employee bulletin board or delivering it through interoffice mail. The specific required notice is at:

http://info.sen.ca.gov/pub/07-08/bill/asm/ab_0601-0650/ab_650_bill_20071013_chaptered.html

Discrimination Claims

Tips to Avoid Discrimination Claims

1. Employee Handbooks must include policies against harassment and discrimination.
2. Prohibit racial jokes, slurs, epithets, name-calling, insults, or teasing.
3. Reassure employees that there will not be retaliation for complaints.
4. Investigate all complaints promptly and thoroughly.
5. Train your managers how to use objective standards in decision making.
6. Train your managers how to identify and respond effectively to harassment.
7. Discipline employees who violate your antiharassment or discrimination policies.
8. When hiring or promoting an employee, make sure to document the legitimate and objective reasons for selecting a candidate, supported by the job descriptions.

Class Actions

Wage-and Hour Class Action

Murphy v. Kenneth Cole Productions, Inc.

In 4/07, the California Supreme Court held that the additional hour of pay for missed breaks is considered wages, NOT penalties. Claims to recover the additional hour of pay are governed by the 3-year statute of limitations, rather than a 1-year statute of limitations for recovery of penalties. Employees who claim that they haven't received breaks have three (3) years to file a claim.

Arbitration Class Action

Gentry v. Superior Court of Los Angeles County
www.courtinfo.ca.gov/opinions/documents/S141502.PDF

In 8/07, California Supreme Court affirmed that class arbitration waivers in employment arbitration agreements would undermine the vindication of the employees' unwaivable statutory rights and would pose a serious obstacle to the enforcement of the state's overtime laws. Accordingly, such class arbitration waivers should not be enforced if a trial court determines that class arbitration would be a more effective way of vindicating the rights of affected employees than individual arbitration.

Estate Plan & Probates

Complex Probates

Our firm has many years of experience in handling complex probates, including properties in the U.S. and in Japan. We coordinate with Japan tax lawyers and accountants to minimize taxes.



Estate Plans

You can avoid the expense and delays of probate with a revocable living trust. James R. Ebert is an attorney and a CPA with experience in saving taxes.

Beware of Identity Theft

Publication of an obituary can result in identity theft. Since the death certificate is a public record, identity thieves can easily obtain all the information they need.