

Featured Professionals

Kendra D. Simmons

Related ServicesEmployment, Labor &
Benefits

If You Have Employees In California - Action May Be Needed!

Legal Update

10.07.2016

By Richard A. Ross & Kendra D. Simmons

Businesses with employees in California will be impacted by two recently-passed laws, one of which generally prohibits choice-of-law and choice-of-venue provisions in employment contracts with California employees and the other which penalizes employers for technical errors on pay stubs. Find out what action you can take to avoid penalties.

New Rule Prohibiting Non-California Forum, Venue and Choice of Law Clauses

Beginning January 1, 2017, employers can no longer require that a California employee bring a lawsuit outside of California or require that any lawsuit be governed by the law of another state. For example, an Iowa or Minnesota business with employees in California could not require that, as part of an employment agreement or offer letter, any California employee be required to (1) sue the business outside of California or (2) that Iowa or Minnesota law govern a suit brought in California. An arbitration clause cannot be used to avoid this new requirement of California venue and choice of law.

Any choice of law or exclusive jurisdiction provision can be voided, meaning that any dispute would then be litigated in California courts under California law. Employers still have the option, however, to include forum, venue and choice of law provisions in employment agreements, if the California employee is individually represented by legal counsel in negotiating the employment agreement.

If you have employees in California, now is a good time to review your form offer letters, confidentiality agreements, and employment agreements to ensure compliance with this new law.

Technical Errors on Pay Stubs Can Cost Employers Enormous Penalties

California Labor Code, Section 226(a) provides for up to a maximum penalty of \$4,000 per employee for minor technical errors on a pay stub, such as missing the start date of the pay period or the full legal name of the employer, or the last four digits of the employee's social security number (or employee number). While employers can "cure" the defects, the statutory penalties can still be assessed.

Employers with employees in California should review their pay stubs to ensure they are in compliance with the law and take appropriate action to correct any pay stubs in violation of the regulation.

If you would like assistance with reviewing employment-related agreements and deciding what, if any, action to take going forward, or if you have other questions related to your obligations under these laws, please contact one of our Employer & Labor Group attorneys.