

WORKPLACE

JEOPARDY

2018

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Final Jeopardy

Truth
Not Fiction

Weekly
Schedules

Penalties

Potpourri of
Possibilities

Your
Invest"ment"

100

100

100

100

100

200

200

200

200

200

300

300

300

300

300

400

400

400

400

400

500

500

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500

500

This is the percentage of
increase since 2017 of
harassment charges filed with
the EEOC alleging sexual
harassment

**What is 12% above
2017 statistics?**



Additional vacation time, employer paid group life insurance and group disability are all examples of ways to distinguish benefits between these groups

What are exempt vs. nonexempt employees?



Just because an individual employee is called this does not mean they will not be “Overtime – Eligible”

**What is a
Salaried Employee?**



It is critically important for employers to regularly audit these task specific documents for compliance under FLSA OT regulations

**What are
Job Descriptions?**



One of the most challenging things in the workplace to deal with regarding overtime is the use and potential abuse of this tool

What are the use of smart phones after hours?



When considering pay practices, as opposed to just salary, and incorporating anticipated OT regulations, HR should consider pay practices as this

What is on a weekly basis?



This is the current minimum
weekly rate under the FLSA OT
Regulations

What is

\$455.00 per week?



The liquidated damages
penalty for an FLSA OT
violation is calculated in this
manner

**What is 1.5x hours worked
over 40, then double it?**



DAILY

DOUBLE

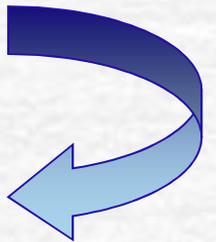
These forms of pay are not currently part of meeting the salary basis test, but the previously quashed OT regulations may foreshadow their future use by employers

What are nondiscretionary bonuses and incentive pay?



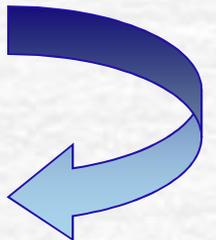
Based on the survey work done by the S.B.A. Office of Advocacy, the department informed the DOL it should do this in regard to having multiple standard salary levels

What is only have one standard salary level?



The look back period under the FLSA for willful OT violations is this

What is three (3) years?



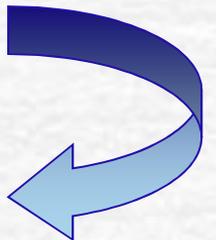
These fees are recoverable by a
successful FLSA or Title VII
plaintiff

**What are
attorneys fees?**



Fully reviewed and acknowledged by employees at the outset, these are very useful to prevail in OT & harassment claims as well as in litigation

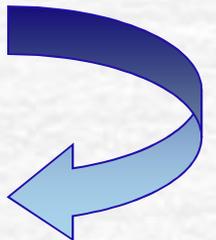
What are signed off on employer policies?



Civil penalties for willful violations of OT regulations recently increased to this for each occurrence

What is

\$1,925.00 per violation?



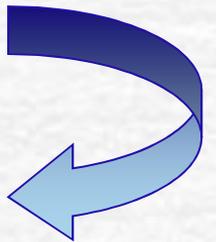
As a direct result of how allegations of OT violations are brought, this is increasingly becoming a serious concern for employers

What is timesheet fraud?



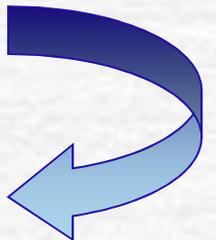
The latest time the US DOL
has stated that they anticipate
putting out “new” regulations
for overtime

What is March 2019?



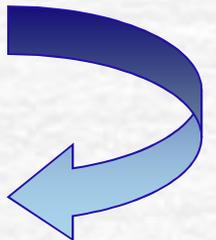
Of all the Charges the EEOC handled in FY 2017, this is the percentage of sex harassment cases it dealt with

What is 30.4 % or 25,605?



The State in the Union initially pushing the envelope in actions that an employer is required to take when addressing harassment.

What is California?



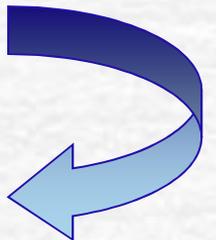
Things such as control of workers,
ownership interest, general HR
functions and duration of
relationship between organizations
are taken into account when
determining if this exists

What is a Joint Employer?



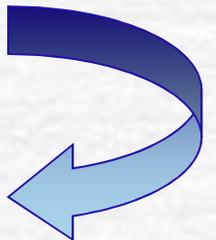
Reducing an employee's weekly hours of work after they raise a claim can result in this under Title VII & FLSA

What is a claim for retaliation?



There are two types of
harassment all employers
need to be concerned about,
Quid Pro Quo and this.

**What is Hostile Work
Environment?**



Looking ahead, California earlier this year enacted a law which requires all harass"ment" training to be expanded to include sexual orientation and this

What is Gender Identity or Gender Expression?



Legislation is now pending in multiple jurisdictions, as well as in Congress to preclude harass''ment'' claims from being withheld from the public in these

What are confidential settlement agreements?



This evolution in the way staff is retained, potentially on a moments notice is a recent phenomena called this, which challenges the very nature of harass''ment'' protections

What are Gig Employees?



Over the last year much has been made via #metoo, yet in the summer of 2016 the EEOC directed employers to include Civility as well as this into all prospective education

**What is Bystander
Intervention Training?**



FINAL JEOPARDY

Changing the Bar

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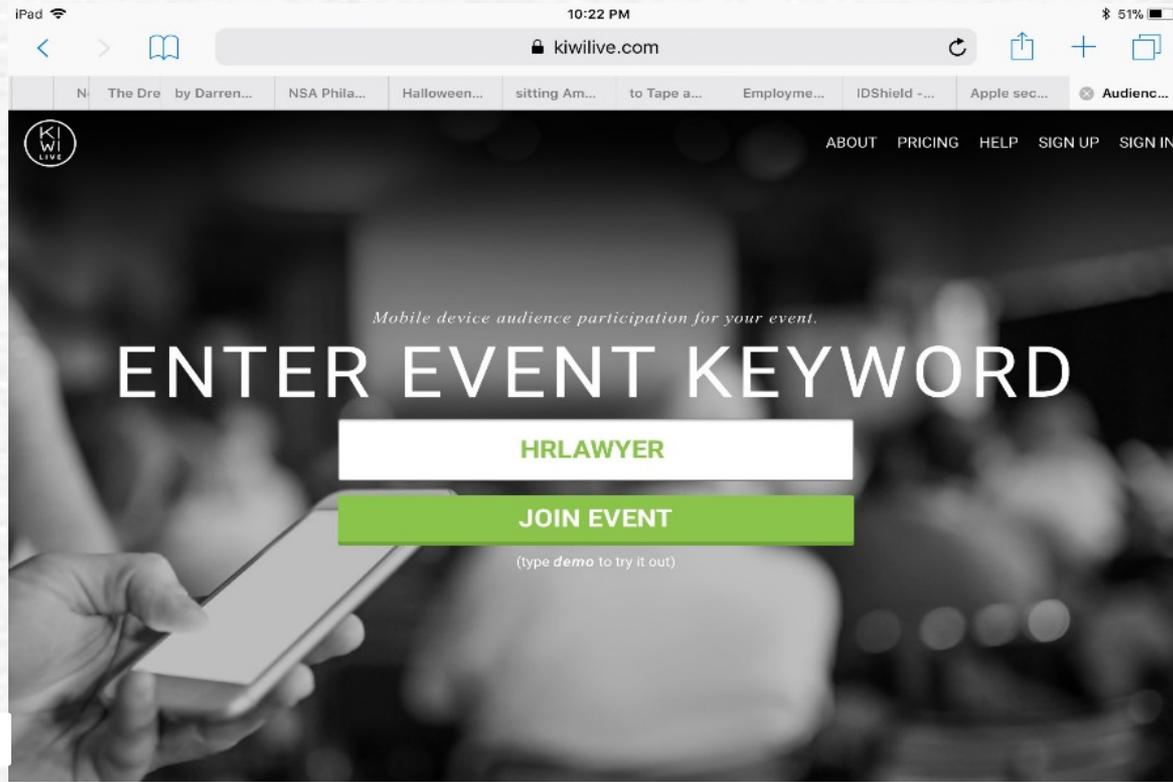
The 3rd Circuit recently changed its long standing position on an affirmative defense to harassment claims, in part as a result of #metoo, which requires an employer to show it exercised reasonable care and this

What is showing that an employee unreasonably failed to take advantage of any preventative... opportunities provided by the employer...?



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