

CLIENT ADVISOR

October, 2013



CLP Welcomes New Associate Attorney



Collins, Loughran & Peloquin, P.C. is pleased to announce that **Stephanie M. Merabet** has joined the firm. Stephanie has been a law clerk with our firm for the past year, while earning a Juris Doctorate at Suffolk University. In July, Stephanie took and passed the Massachusetts bar exam.

We welcome Stephanie as an associate in the firm and believe you will find that she has a strong knowledge of labor and employment law and education law, especially in the context of our public sector practice.

Release of Claims Under the Wage Act

In Crocker v. Townsend Oil Company, 464 Mass. 1 (2012), the Massachusetts Supreme Judicial Court (SJC) announced an important requirement to render a release of claims under the Wage Act, Mass. Gen. Laws c. 149, §§ 148 et seq., enforceable.

In Crocker, the Townsend Oil Company agreed to pay the terminated plaintiffs several thousand dollars each in consideration for a general release of claims. The plaintiffs later filed a class action against Townsend, claiming that Townsend misclassified them as independent contractors, rather than employees, and that as a result, Townsend owed them wages and overtime. Townsend asserted the general release the parties had agreed to in its defense, and the plaintiffs argued that the release was unenforceable as a “special contract” under the Wage Act. The Wage Act prohibits the use of “special contracts” to exempt employers from the Wage Act’s provisions and entitles successful claimants to mandatory treble damages and attorney’s fees.

In its decision, the SJC clarified that for a release of claims under the Wage Act to be enforceable, the language in the agreement “must be plainly worded and understandable to the average individual, and it must specifically refer to the rights and claims under the Wage Act that the employee is waiving.” If the release fails to include this specific language, courts will not enforce the agreement, and plaintiffs will be entitled to bring any and all claims under the Wage Act. Based on this decision, employers are encouraged to consult counsel in drafting agreements releasing claims under the Wage Act.

Settlement Agreements Are Public Record Subject to Redaction of “Personnel Information”

Settlement agreements are public records under the Public Records Law; however, certain information contained in settlement agreements may be subject to an exemption. A recent Superior Court decision sheds light on what information may be redacted when producing a settlement agreement in response to a public records request. In Globe Newspaper Co. v. Exec. Office of Admin. and Finance, No. 2011-01184 A (J. Connors, 2013), the court concluded that the following “personnel information” may be exempt from disclosure: compensation matters (promotion, adjustment of salary grade); waiver of rights under collective bargaining agreement; demand of voluntary resignation, removal of letters from a personnel file, and adjustment or continuation of benefits (COBRA, unemployment assistance, and resolution of any pending grievances or litigation). According to the court’s decision, once this information has been removed, public disclosure of these agreements does not constitute an unwarranted invasion of privacy. Employers are encouraged to consult counsel and review what constitutes “personnel information” prior to disclosing any settlement agreements.

Speaking Engagements

On November 8, 2013, Josh Coleman will co-present at a Suffolk University Masters of Public Administration (MPA) Certificate Program lecture for municipal officials in Watertown, MA. Sponsored by the Massachusetts Municipal Association (MMA), the training series is offered through a partnership between the MMA and Suffolk’s Moakley Center for Public Management.

The focus of the lecture is progressive discipline.



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