



LABOR & EMPLOYMENT DEPARTMENT

ALERT

NEW JERSEY DIVISION ON CIVIL RIGHTS POSTER INSPECTION INITIATIVE CONTINUES

By: Ian W. Siminoff, Esq.

The New Jersey Division on Civil Rights (the Division) requires that all employers display the Division's official employment and Family Leave Act posters so that they are easily visible to employees and applicants for employment. In addition, places of public accommodation are required to display the Division's official public accommodation poster so that it is visible to persons seeking admission to such places.

In a new initiative, the Division is conducting programmed inspections of businesses to confirm compliance with the Division's posting requirements. So far, the programmed inspections have focused on shopping malls in Northern New Jersey, including Garden State Plaza, Willowbrook, Paramus Park and Short Hills. After a short break following an initial round of programmed inspections in April and May of this year, the Division is set to begin additional programmed inspections starting this month.

The programmed inspection process is as follows. A Division investigator will arrive without any prior notice and inspect the premises to confirm compliance with the Division's posting requirements. Businesses that are not in compliance will receive a "Notice of Violation and Offer of Settlement." The Notice will indicate what posters are either missing, not

easily visible and/or out of date, along with an offer to settle based upon the alleged violations. Fines appear to have been in the range of \$500-\$1,000, depending upon the number of violations. Employers have 20 days to decide to either: (1) pay the fine; (2) present mitigating circumstances in writing or at an informal mediation conference; or (3) challenge the fine. If the fine is challenged, the Division will initiate an enforcement action against the employer. It is unclear what mitigating measures will suffice to reduce any assessed fine; however, lack of knowledge of the posting requirements is not adequate. James Sincaglia, the Division's Major Case Unit Chief, who is spearheading the programmed inspection effort, has advised that businesses with multiple locations might be given a reduced fine for violations at multiple locations.

While the current initiative is limited to shopping malls, employers are advised to come into compliance. The required Division postings can be downloaded at www.njcivilrights.org.

Please also note that while not enforced by the Division, there are additional postings required by New Jersey law, including postings pursuant to the New Jersey Conscientious Employee Protection Act and the New Jersey Wage and Hour Law. In addition, there are also federal posting requirements.

FIRST OF SEVERAL FEDERAL MINIMUM WAGE INCREASES GOES INTO EFFECT

Please note that effective July 24, 2007, the first of three increases to the Federal minimum wage went into effect, increasing the Federal minimum wage to \$5.85 per hour. This is the first increase to the Federal minimum wage since 1997. The next two increases will be on July 24, 2008, at which time the rate will be raised to \$6.55 per hour, and on July 24, 2009, when the rate will be raised to \$7.25 per hour. All workplaces subject to the Fair Labor Standards Act's minimum wage

provisions are required to post the new rates in a conspicuous location. The new poster identifying these rates can be downloaded at <http://www.dol.gov/esa/whd/flsa/index.htm>.

If you have questions regarding this Alert, please contact the author or another member of the Labor & Employment Department via the contact information listed herein.

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