

Top 10 Trends Facing California Employers in 2017

By Nancy Yaffe

With a very Democratic state legislature that is well positioned to offset a very Republican White House, the following are the top 10 trends I saw in my practice from 2016 that inform what California employers can expect in 2017:

1. Not only is California on the forefront of equal pay on the basis for gender, but the law has now been [expanded to require equal pay on the basis of race or ethnicity](#) as well. If you haven't set up your employee data in a way that you can analyze such disparities, it is time to start.
2. I am still a fan of arbitration agreements with class action waivers and [my recommendation to always include an opt-out provision](#) has been validated by several recent court decisions. If the arbitration agreement isn't mandatory, then it is much easier to defend.
3. The trend toward citywide sick leave and minimum wage increases will continue, creating a very complicated [patchwork of rules and compliance challenges](#).
4. Watch out for cities looking to impose additional requirements, such as the [Los Angeles ordinance to ban the box on employment applications](#) seeking information about prior convictions.
5. Disability claims, especially claims for failure to engage in the [interactive process](#), are on the rise. So don't skip the interactive dialogue steps (and make sure to document them) before you take action.
6. Age-based claims based on layoff decisions are consistently filed, so make sure that the [basis for layoff decisions are well documented](#), not age-based, not salary-based (if that has a disparate impact on age), that every single employee laid off is shown a list of job openings at the company (whether qualified or not), and document that you showed them the list and asked if they were interested in or qualified for any of the open positions.
7. [San Francisco's Paid Family Leave program](#), which requires employers to pay the 45 percent that the state doesn't pay for six weeks of leave, may become a trend for other cities.
8. Now that recreational [marijuana is legal](#) and if unemployment stays relatively low and immigration laws tighten, expect more employers to forgo pre-employment drug screens due to a lack of eligible workers who are cannabis free.
9. One [prediction from last year](#) that hasn't fully come to fruition, but merits a repeat mention, is to expect more wage and hour claims based on failure to pay overtime and/or sick pay at the proper rate.
10. And finally, as always, the devil is in the details. Quite often employers have the right policies, but simply don't train new managers on them or ensure that they are consistently followed. Periodic Human Resources compliance audits and management training should be part of every company's budget for 2017.

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If you have any questions about how these issues apply to your company or in any particular situation, please contact [Nancy Yaffe](#) at 310.598.4160 or nyaffe@foxrothschild.com or any other member the firm's [Labor & Employment Department](#).