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**2021 Annual Convention** #HFTP



**Solving the Mystery of Employment Law:**

*Techniques for Controlling the Workforce and Staying out of Court*

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**SPEAKER**



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## Current Legal Landscape

***Levanoff v. Dragas (California)*—  
What formula to use for overtime?**

- “Weighted average” versus “rate in effect”
- Why this is notable
  - ✓ Rise in wage claims
  - ✓ Employee’s misconduct is largely irrelevant
  - ✓ Uninsured
  - ✓ Requires monitoring



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## Current Legal Landscape

***Marlo Spaeth v. Walmart (Wisconsin)*—  
A \$125,150,000 verdict for disability discrimination, mostly punitive damages.**


- Why this is notable
  - ✓ Higher number of discrimination cases than sexual harassment
  - ✓ Insured except for punitive damages
  - ✓ Leaders’ bad decisions led to bad outcome



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## Equal Employment Opportunity Commission Statistics from 2020




Total of 67,484, steady rise in discrimination claims based on disability and skin color


Claims by category:

- Retaliation: 37,632 (55 % of all charges filed)
- Disability: 24,324 (36.1 %)
- Race: 22,064 (32.7%)
- Sex: 21,398 (31.7 %)
- Age: 14,183 (21.0%)
- National Origin: 6,377 (9.5%)
- Color: 3,562 (5.3%)
- Religion: 2,404 (3.6%)
- Equal Pay Act: 980 (1.5%)
- Genetic Information: 440 (0.7%)

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## Equal Employment Opportunity Commission Statistics from 2020




Costs of workplace lawsuits

- 🌱 Health care costs and insurance premiums
- Productivity declines
- Turnover increases
- Legal fees proliferate
- Individual health care costs increase
- Career development stalls
- “Victim mentality” can develop

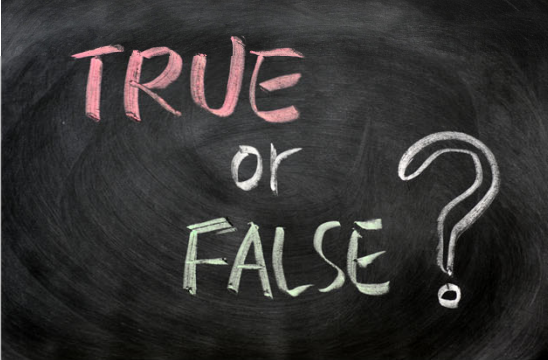
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## Employment Law Hotspot




✔ ✘

**Wrongful Termination:** One way to “fire” an employee, without risk, is to eliminate the employee’s position with the business.


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## Employment Law Hotspot




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**Disability Discrimination:** If the employee doesn’t tell you about her physical problems, you have no obligation to give reasonable accommodation.

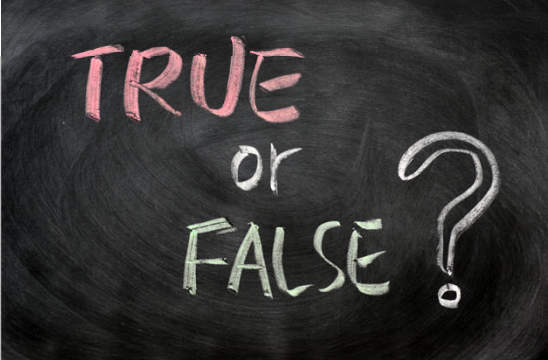
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**Discrimination Generally:** You have a legal right to control your workplace and make decisions that someone may feel are discriminatory without fear you will be sued personally.


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## Employment Law Hotspot




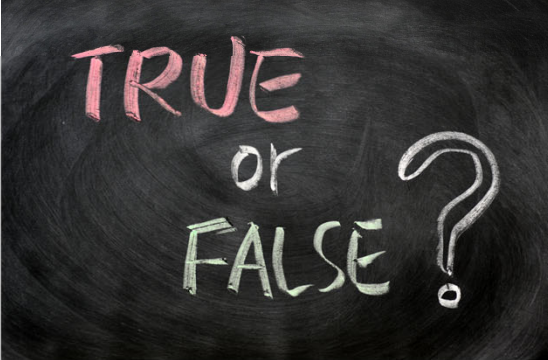
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**Harassment:** You have a legal right to control your workplace and take a reasonable amount of time before responding to complaints.

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## Employment Law Hotspot

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**Wage & Hour:** A good way to encourage someone to work for the business is to hire the person as an independent contractor so they can deduct their expenses from taxes; this way the business avoids payroll taxes and the cost of benefits.

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## Identify Where Lawsuits Are Forming, Even if the Employees Don't Realize It

Demand the organization evaluate itself

- ✓ Ensure organization's anti-harassment (EEOC) policy is current
- ✓ In fact, ensure all policies are current
- ✓ Ensure organization delivers training
- ✓ Audit insurance coverage
- ✓ Audit your positions to ensure wage and hour compliance
- ✓ Use independent contractors only where the law permits

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Identify Where  
Lawsuits Are  
Forming, Even If  
the Employees  
Don't Realize It

What the executive can do