‘TIS THE SEASON: TIPS FOR AVOIDING LIABILITY RELATED TO EMPLOYER-SPONSORED HOLIDAY PARTIES

It is that time of the year again – the holidays are upon us! Along with the holidays comes holiday parties, which can bring your employees closer together and boost morale. While a fair amount of planning goes into venue, food, and festivities, employers should also plan ahead to avoid potential legal liability that can be associated with a company-sponsored party. The festive atmosphere combined with alcohol consumption can cause the potential for inappropriate behavior or claims relating to injuries suffered during or after the event.

In preparing for a company-sponsored holiday party, employers should take steps to:

1. Prevent Sexual Harassment. The best way to prevent sexual harassment is to educate your employees about your company’s anti-harassment policy and ensure that employees understand that harassment involving any employee, whether within or outside the office, will not be tolerated. To set the tone of the party in advance, you may consider reminding employees that, while they are encouraged to have fun at the holiday party, it is still a company-sponsored event and, accordingly, all company policies and rules apply.

2. Reduce the Risk of Alcohol-Related Accidents. Employers may be subject to potential liability for injuries caused by employees who consume alcohol at employer-sponsored events. Negligence and Respondeat Superior, which holds employers liable for acts of employees undertaken in the course of their employment, are two examples. Some states, like Illinois, also have “dram shop” or “social host” liability laws, which hold the provider of alcoholic beverages to intoxicated individuals liable for injuries those individuals may cause while intoxicated. To avoid potential liability under these types of theories, employers should promote responsible drinking and monitor alcohol consumption appropriately. Employers may also want to consider holding their holiday party at a restaurant or other off-site location where alcohol is served by professional bartenders who know how to recognize and respond to guests who are visibly intoxicated.

3. Minimize the Risk of Worker’s Compensation Liability. Generally speaking, worker’s compensation benefits may be available to employees who suffer a work-related injury or illness. In order to minimize the risk of liability for an employee injury or illness that occurs during an employer-sponsored event, employers should make it clear to employees that there is no business purpose for the event, that attendance at the holiday party is completely voluntary, and that they are not being compensated for their attendance at the event. Employers should also consider that injuries or illness associated with contaminants found in food or drinks may create legal exposure if their food and beverage providers are not

properly licensed – using a third-party provider who is licensed may reduce your risk of liability because these licensed providers are typically subject to inspections and protected by their own insurance coverage.

4. Prevent Wage and Hour Claims by Non-Exempt Employees. To avoid any confusion as to whether time spent at a company-sponsored holiday party is compensable time under federal and state wage and hour laws, employers should be sure that participation in the holiday party is completely voluntary, that the party is held outside working hours, and that employees are not performing any work during the party or are not under the impression that they are performing work functions at the party that could be considered compensable under applicable law.

If you have any questions about any of the information provided in this article or would like further advice on how to avoid liability at your company-sponsored holiday party, please do not hesitate to contact us.

ENDA PASSES SENATE

On November 7, 2013, the U.S. Senate passed the Employment Non-discrimination Act ("ENDA") with a 64-32 vote. The bill would prohibit employers from discriminating against individuals based on the individual's sexual orientation or gender identity, similar to the way Title VII of the Civil Rights Act of 1964 prohibits other types of discrimination.

The bill now moves to the House of Representatives, where its passage is uncertain.

For more information about the Senate Bill (S.815), please **click here** to read our recent blog post regarding ENDA. Visit our blog for updates on ENDA and to find out whether it becomes law.

TENTH CIRCUIT SAYS EMPLOYEES MUST GIVE EXPRESS NOTICE OF RELIGION-WORK CONFLICT

Earlier this month, the U.S. Court of Appeals for the Tenth Circuit found that the EEOC failed to establish a prima facie case of religious discrimination where the EEOC could not show that a prospective employee expressly informed the employer of a conflict between the

applicant's religious beliefs and the employer's dress code and of the applicant's desire for a reasonable accommodation from that dress code.

In *EEOC v. Abercrombie and Fitch Stores, Inc.*, the Tenth Circuit reversed the lower court's grant of summary judgment in favor of the EEOC on the EEOC's claim that the employer failed to provide a reasonable religious accommodation for a prospective employee who wore a "hijab" (headscarf) for religious reasons. The employer, a national retail clothing company, maintains a "Look Policy" or dress code that is intended to promote and showcase the company's clothing brand. The policy requires employees to dress in clothing that is consistent with the kinds of clothing that the company sells in its stores and prohibits employees from wearing black clothing and caps.

The employer rejected the prospective employee for employment after she wore a hijab to her job interview. The EEOC filed suit against the company, alleging that the company failed to provide the prospective employee a reasonable religious accommodation in violation of Title VII of the Civil Rights Act of 1964.

The Tenth Circuit recognized employers' obligation under Title VII to reasonably accommodate religious practices of an employee or prospective employee unless the employer demonstrates that the accommodation would pose an undue hardship on its business. The court found that, in this case, the EEOC had failed to establish one of the key elements of a Title VII religious accommodation claim – notice. The Tenth Circuit held that in order to succeed on such a claim, the employee or prospective employee must inform the employer that he or she engages in a religious practice that conflicts with the employer's policy and that the employee would, therefore, require an accommodation for that religious practice.

Because the prospective employee, in this case, did not inform the employer, prior to its hiring decision that she engaged in the conflicting practice of wearing a hijab for religious reasons and that she needed an accommodation for it, the court found that the EEOC could not meet the requirements for a religious accommodation claim under Title VII.

As an employer, you should be aware of the general obligation under Title VII to reasonably accommodate religious practices of employees or prospective employees who inform you of a conflicting religious belief or practice and the need for such an accommodation. Understand, however, that the reasonable accommodation obligation is implicated *only* when there is a conflict between an employee's religious practice and your neutral policy. If you are made aware of an employee's religious conflict, you should take steps to obtain additional information that would allow you to determine whether an accommodation can be made available to that employee to eliminate the religious conflict without posing an undue hardship on your business. If you have questions about religious accommodation under Title VII, please contact one of our Employment Law attorneys.

SMALL BUSINESS FINED "BIG BUCKS" FOR I-9 MISTAKES

Recently, the Circuit Court of Appeals for the Ninth Circuit upheld the imposition of a $173,250.00 fine against a small drywall installation company for failure to maintain complete and accurate Employment Eligibility Verification Forms ("I-9 Form"). You can find the court's decision at the following link: *Ketchikan Drywall Services, Inc. v. Immigration and Customs Enforcement*.

The court found that the employer violated its legal obligation under the Immigration and Nationality Act (the "Act") to verify that its employees were legally authorized to work in the United States through the following actions:

1. Failure to provide any I-9 form at all for certain employees;
2. Failure to complete certain sections of the I-9 form; and
3. Omitting necessary information from the I-9 form.

The employer argued that although some information was missing from its I-9 forms, it had substantially complied with the law by copying and retaining employees' verification documents and attaching them to the I-9 Forms, and that any omissions were either minor or could be filled in by reference to those documents. The court made it very clear, however, that failing to complete entire sections of the form despite maintaining the necessary information in a separate document was not sufficient to meet the statutory requirements and resulted in a violation of the Act.

Although the employer argued that transcribing the necessary information onto the I-9 forms was a "waste of time" when the information was already available on the attached copies of the relevant document, the court emphasized that "requiring that the parties take the time to copy information onto the I-9 Form helps to ensure that they actually review the verification documents closely enough to ascertain that they are facially valid and authorize the individual to work in the United States" and that the I-9 Form itself "provides concrete evidence that such review took place."

The Court also provided other specific examples of what it would consider I-9 deficiencies that could result in significant fines:

1. Failure by the employee to attest to one of the three specific categories of eligibility and instead attesting that he or she is authorized to work generally.
2. When relying on an employee's driver's license to verify eligibility, failing to provide the issuing authority on the I-9 Form, regardless of whether the issuing authority could be

inferred from the format of the driver's license number.
3. When re-hiring a former employee, failing to ensure that the employee again attests to his or her eligibility to work in the United States and instead simply relying on the employee's former attestation.

This decision serves as an important reminder for all employers to make sure they are strictly complying with all I-9 requirements and paying careful attention that all 1-9 Forms are complete and accurate. Failing to maintain complete and accurate I-9 Forms could result in significant and unnecessary fines. Employers who have questions regarding I-9 compliance should contact us at (414) 276-5000.

DOL EXTENDS OVERTIME COVERAGE FOR DIRECT CARE WORKERS

The U.S. Department of Labor has extended minimum wage and overtime coverage for certain domestic service employees who provide home health care services for the elderly, infirmed, and disabled. The Labor Department's new rule will go in effect on January 1, 2015.

The Fair Labor Standards Act (FLSA) covers individuals employed in domestic services in households. In 1974, Congress extended coverage to "domestic service" workers who perform household services in a private home, including those domestic service workers employed directly by households or by companies too small to be covered under the FLSA. "Domestic service employment" includes services performed in or about a private home by nurses, certified nurse aides, home health care aides and other individuals providing direct care services.

Currently, certain domestic service workers, also known as "direct care workers," who are employed to provide "companionship services," such as companions for elderly persons or persons with an illness, injury, or disability are generally not required to be paid minimum wage and overtime pay. The newly revised regulations attempt, however, to narrow this companionship service exemption so that many of these workers who are now exempt from minimum wage and overtime coverage under the FLSA, such as certified nursing assistants, home health aides, and other caregivers, would be protected under the FLSA once the new regulations go into effect. In addition, third-party employers will no longer be entitled to claim either the companionship services or live-in domestic service employee exemptions under the new regulations.

Under the Department's new regulations, the definition of "companionship services" is more clearly and narrowly defined. Specifically, companionship services will be defined to include

providing fellowship and protection (defined as engaging the person in social, physical, and mental activities such as conversation, reading, games, etc., and being present with the person to monitor his or her safety and well-being), and may also include assisting with activities of daily living (ADLs) (such as dressing, grooming, feeding, bathing, toileting, and transferring) and instrumental activities of daily living (IADLs) (tasks that enable a person to live independently at home such as meal preparation, driving, light housework, managing finances, and assistance with taking medication) as long as this assistance is not more than 20% of the time worked in any workweek. If a direct care worker meets this duties test, an individual, family, or household who employs such a person may claim the companionship services exemption under the FLSA. If, on the other hand, the direct care worker spends more than 20% of his or her workweek providing services that do not consist of fellowship and protection, such as grocery shopping, cooking, and other ADLs and IADLs, then the worker must be paid minimum wage for all hours worked and overtime for any hours worked over 40 in the workweek.

For additional information, see the Department of Labor's Fact Sheet: Application of the Fair Labor Standards Act to Domestic Services, Final Rule.

WISCONSIN MAY "BAN THE BOX" ON EMPLOYMENT APPLICATIONS

A recent **Employment LawScene™ article** discussed the EEOC's recent heightened efforts to crack down on employers' use of criminal background checks in making hiring decisions. As part of its efforts, the EEOC issued guidance to employers in April 2012, in which the EEOC endorsed the policy of removing questions regarding criminal conviction history from job applications as a best practice for employers.

Following the EEOC's lead, in what can only be described as a nationwide movement that has recently gained considerable momentum, 53 local jurisdictions and 8 states (including Minnesota) have enacted "ban-the-box" legislation that would prohibit employers from considering a job applicant's criminal conviction record before the applicant has been selected for an interview. Two other states, California and Illinois, have adopted "ban-the-box" policies through administrative directives rather than legislation. (Statistics courtesy of the National Employment Law Project).

Wisconsin could become the next state to "ban the box" on employment applications. On August 27, 2013, a bill that would prohibit employers from asking for information regarding an applicant's criminal conviction record before the applicant has been selected for an

interview, was introduced to the Wisconsin legislature and referred to Committee. Wisconsin Assembly Bill 342 provides that requesting an applicant for employment to supply information regarding his or her conviction record on an application form or otherwise inquiring into or considering an applicant's conviction record before the applicant has been selected for an interview, constitutes employment discrimination under Wisconsin law. The bill would not, however, prohibit an employer from notifying applicants for employment that individuals with certain conviction records may be disqualified by law or the employer's policies from employment in particular job positions.

Understandably, a number of employers use criminal background checks to identify job applicants who might present a risk to the employer's business, its employees, and its customers or clients. Wisconsin employers should pay close attention to Assembly Bill 342 as it makes its way through the State legislature, as passage of this bill could result in a number of employers having to make significant changes to their hiring processes and job applications.

WILL WISCONSIN BE NEXT TO BAN EMPLOYERS FROM ACCESSING EMPLOYEE SOCIAL MEDIA ACCOUNTS?

Wisconsin may soon join fourteen other states that have adopted laws prohibiting employers from requesting usernames and passwords to access an employee's or job applicant's social media accounts, including Facebook® and Twitter®.

On Tuesday, August 20, 2013, the Wisconsin Senate Committee on Judiciary and Labor held a public hearing to discuss a bipartisan bill that would prohibit employers from accessing and monitoring the personal internet accounts of employees and job applicants. The bill would make it unlawful for employers to ask employees and applicants for their personal social media account passwords and would permit employees and applicants to file a complaint against their employer for violations of this law with the Wisconsin Department of Workforce Development in the same manner as an employment discrimination complaint. Besides restricting access to employees' personal social media accounts, Senate Bill 223 would also make it unlawful for an employer to discharge or otherwise discriminate against any person for exercising the right to refuse a request for access to such accounts.

Although seen as a prohibition, Senate Bill 223 provides a number of protections for employers. The bill would not prohibit employers from accessing electronic communications

devices, accounts, or services that the employer provides to its employee by virtue of the employment relationship or that are paid for by the employer and used for business purposes. Senate Bill 223 would also permit employers to restrict employees' access to certain internet sites and monitor, review, or access electronic data stored on the employer's own network and on devices provided by the employer. The bill would also afford employers certain protections to permit discipline or discharge of employees who transfer the employer's proprietary or confidential information or financial data to the employee's personal internet account without the employer's authorization. Finally, Senate Bill 223 provides employers with a shield to legal liability against claims that an employer should have known, or should have monitored, an employee's social media account in relation to claims for negligent hiring or negligent retention.

According to the National Conference of State Legislatures, similar laws have been introduced or are pending in at least 36 states. Eight states, including Arkansas, Colorado, Nevada, New Mexico, Oregon, Utah, Vermont, and Washington, have enacted legislation so far in 2013.

A federal law prohibiting employers from requesting or requiring employees and applicants to provide usernames, passwords, or any other form of access to personal social media accounts, is also being pushed through Congress. The Social Networking Online Protection Act was initially introduced in April 2012, but never made it to the House or Senate. The Act was re-introduced and assigned to the Congressional committee on February 6, 2013. If the Act passes committee, it will be passed on and considered by Congress.

Stay Tuned . . .

Employers should stay tuned to both the state and federal legislation that could potentially change the way employers conduct background checks for prospective employees and investigate allegations of misconduct regarding current employees. Please continue to check the Employment LawScene® for updates on these important anticipated changes in state and federal law.

SUPREME COURT ADOPTS NARROW DEFINITION OF "SUPERVISOR" IN CONTEXT OF WORKPLACE HARASSMENT CASES

On June 24, 2013 the Supreme Court of the United States issued a decision in *Vance v. Ball State University*, in which it defined narrowly what it means to be a "supervisor" in the

context of workplace harassment claims. The Court's decision in *Vance* has been a long time coming and offers long-awaited guidance to employers as to who constitutes a "supervisor" for purposes of imposing strict liability under Title VII for workplace harassment.

Whether an employee is considered a "supervisor" for purposes of Title VII is of critical importance because an employer's exposure to liability is significantly different depending on whether that employee is a "supervisor" or simply a co-worker. An employer is liable for harassment by a co-worker only if the employer was negligent in controlling working conditions. Different rules apply, however, where the alleged harasser is a "supervisor." In those situations, an employer may be strictly or automatically liable for the supervisor's creation of a hostile work environment where the supervisor's alleged harassment results in a tangible employment action such as hiring, firing, or failure to promote. Where the harassing conduct is committed by a "supervisor," an employer can only avoid liability in the absence of a tangible employment action if: (1) the employer exercised reasonable care to prevent and correct the harassing conduct (*i.e.*, having a written anti-harassment policy, conducting regular supervisory training, *etc.*); and (2) the employee failed to take advantage of the employer's preventive and corrective measures available to the employee. So, whether an alleged harasser is a "supervisor" or merely a co-worker is important.

In *Vance v. Ball State University*, the Supreme Court defined "supervisor" narrowly to mean only those individuals who have authority to take tangible employment actions including a significant change in employment status, such as hiring, firing, failing to promote, reassignment with significantly different responsibilities, or a decision causing a significant change in benefits. In adopting this narrow definition of supervisor, the Court rejected the EEOC's attempt to broaden the definition of "supervisor." The EEOC attempted to argue that individuals who simply direct the work of another employee should be sufficient to caste the title of "supervisor" upon an individual for the purpose of imposing strict vicarious liability upon the employer, which would include anyone who directs another employee's work tasks.

The Supreme Court's adoption of the more narrow definition of "supervisor" means that not every employee with the authority to direct work will be considered a supervisor for the purpose of imposing strict liability upon an employer for workplace harassment. The Court's holding may result in employers facing less strict liability harassment claims in the future and at the same time provide employers a better opportunity to defend themselves against such claims under the less stringent negligence theory of liability.

What Steps Should You Take to Protect Your Business in Light of the Vance *Decision?*

Be sure to review and update your anti-harassment policies and procedures and communicate those policies and procedures to your employees. You should always be sure to act quickly in conducting a thorough investigation of any complaint or allegation of

harassment by one of your employees and take appropriate corrective or disciplinary actions as necessary.

Also, clearly establishing the status of each of your employees will continue to be of critical importance. You should create or review and clarify job descriptions for those employees who you intend to have authority to take tangible employment actions.

Please contact Sarah Matt for more information or to provide you advice regarding your anti-harassment policies and procedures and employee job descriptions.

SEVENTH CIRCUIT REVERSES COURSE ON EMPLOYER'S ADA REASONABLE ACCOMMODATION OBLIGATIONS

In *EEOC v. United Airlines*, the Court of Appeals for the Seventh Circuit held that an employer, as part of its reasonable accommodation obligations under the Americans with Disabilities Act ("ADA"), must reassign a disabled employee to an open and available position regardless of whether there might be a better or more qualified applicant for that job position. The Seventh Circuit's holding is a direct reversal of its previous decision on the same issue twelve years earlier when it held that an employer who has an open and available position is not required to provide a disabled employee seeking reassignment to that open and available position preferential consideration when there are better qualified applicants for the position provided the employer has a consistent policy to hire the best applicant for the particular job in question, rather than the first qualified applicant.

In a decision issued twelve years ago by then Chief Judge Richard Posner, the Seventh Circuit took the position that the ADA is not a mandatory preference act and that the ADA only requires an employer to consider the feasibility of reassignment. The Seventh Circuit also previously held that it was not Congress' intent when it passed the ADA that a reasonable accommodation should be used to provide a disabled employee an advantage or preference over non-disabled employees. Rather, it was Congress' intent to provide disabled employees a level playing field with non-disabled employees relative to job opportunities. In that case, the Seventh Circuit held that a "policy of giving the job to the best applicant is legitimate and nondiscriminatory."

In its United Airlines decision, the Seventh Circuit reversed its anti-preference interpretation of the ADA based upon a re-examination of the U.S. Supreme Court's decision in *Barnett v. U.S. Air, Inc*. where the U.S. Supreme Court arguably rejected that interpretation of the ADA

noting that such an argument "fails to recognize what the Act specifies, namely, that preferences will sometimes prove necessary to achieve the Act's basic equal opportunity goal." The Seventh Circuit interpreted this language from the Barnett decision to mean that an employer is mandated under the ADA to reassign a disabled employee to a vacant position absent a showing of an undue hardship, regardless of whether there might be better qualified candidates for the position.

An argument can be made that the Seventh Circuit interpreted the U.S. Supreme Court's "preference" requirement in Barnett too broadly. That is, the ADA does in fact provide a preference to disabled employees – that preference is in the form of a reasonable accommodation as a means of leveling the "playing field" between disabled and non-disabled employees. However, the ADA does not expressly provide that employees with disabilities should be given "bonus points" relative to other qualified applicants or candidates when competing for the same position. As Judge Posner astutely questioned: Should the ADA provide preferential consideration to a 29-year-old white male with tennis elbow in providing that employee preferential treatment in reassignment to a vacant position over a 62-year-old black woman with no disability who also happens to be the more qualified and better applicant for the job? Under such a scenario, the ADA creates a hierarchy of protections against discrimination, placing an employee with a disability ahead of members of other groups also deserving protections, such as racial minorities. In our opinion, the U.S. Supreme Court in Barnett did not intend to signal such preferential treatment to employees with disabilities, but, rather, was addressing those preferences that may be necessary to level the "playing field" in the workplace for such employees. The question becomes how far does the duty of reasonable accommodation extend when it affects the legitimate expectations of other qualified applicants or employees. This was an important question that the Seventh Circuit did not address in its United Airlines decision and, perhaps, may be a question the U.S. Supreme may wish to address.

In *Huber v. Wal-Mart Stores, Inc.*, a case that followed the Barnett decision, the U.S. Supreme Court had the opportunity to address the issue of whether an employer who has an established policy to fill vacant job positions with the most qualified applicant is required to reassign a qualified disabled employee to a vacant position as a reasonable accommodation, although the disabled employee is not the most qualified applicant for the position. Unfortunately, this case was settled by the parties before the U.S. Supreme Court could rule on the case. A decision in the Wal-Mart case would have answered this important question regarding an employer's obligation to reassign a disabled employee who can no longer fulfill the responsibilities of his or her original job position when there are other better qualified applicants.

Despite the Seventh Circuit's reliance on the Barnett decision, it less than clear whether the U.S. Supreme Court intended for the application of a best-qualified applicant policy to be a per se violation of the ADA when a disabled employee seeks reassignment as a form of a

reasonable accommodation, especially when that reassignment is to the detriment of better qualified applicants or candidates. Neither the ADA nor the corresponding regulations express that reassignment to a vacant position is mandatory when it is to the exclusion of other qualified applicants or that an employer has to provide a disabled employee preferential treatment. In fact, the ADA stops short of requiring that any particular group be afforded a competitive advantage over all others when it comes to hiring or other job placements decisions. Although the U.S. Supreme Court recently rejected the opportunity to review the Seventh Circuit's decision in United Airlines, it will hopefully be an issue that the Court will address in the near future when given the opportunity.

FIFTH CIRCUIT FINDS FIRING A WOMAN FOR EXPRESSING BREAST MILK IS SEX DISCRIMINATION

The U.S. Court of Appeals for the Fifth Circuit recently held that firing a female employee because she is lactating or expressing breast milk constitutes sex discrimination in violation of Title VII of the Civil Rights Act.

Title VII of the Civil Rights Act prohibits discrimination on the basis of sex, which, until Congress enacted the Pregnancy Discrimination Act ("PDA"), did not include discrimination on the basis of pregnancy. The PDA made clear that discrimination based on or because of sex includes discrimination based on or because of pregnancy, childbirth, or related medical conditions. In *EEOC v. Houston Funding II Limited*, the Fifth Circuit has now held that lactation is a "related medical condition" of pregnancy for purposes of the PDA.

In the *Houston Funding* case, a female employee filed a charge of sex discrimination with the EEOC when her employer, Houston Funding, fired her after she asked whether she could use a breast pump at work. The employee took a personal leave of absence to have a baby. Shortly after giving birth, the employee told Houston Funding that she would return to work once her physician released her to do so. While she was on leave, the employee had communicated to her supervisor that she was breastfeeding her child and asked whether she would be able to use her breast pump at work. When the employee's physician finally released her to return to work, the employee again mentioned that she was lactating and wanted to know whether she could use a back room to express breast milk. Houston Funding told the employee that they had filled her position and that she was being terminated for job abandonment because she had not contacted her supervisor during her leave and had not attempted to return to work. The employee responded by filing a sex discrimination claim

with the EEOC.

The Fifth Circuit found that Houston Funding discriminated against the employee based on a related medical condition of the employee's pregnancy – in other words, because she was lactating and wanted to express breast milk at work. The Fifth Circuit's holding in *Houston Funding* means that courts are beginning to recognize that employment decisions based upon whether a woman is lactating may be considered discriminatory in violation of Title VII.

What Should Employers do to Avoid These Types of Claims?

Be sure to follow best practices and applicable employment laws. For example, federal law requires employers to provide reasonable break time and a private place (other than a restroom) for female employees to express breast milk after giving birth to a child. Additionally, Wisconsin law prevents employers from prohibiting a mother from breast-feeding her child, directing a mother to move to a different location to breast-feed her child, directing a mother to cover her child or breast while breast-feeding, or otherwise restricting a mother from breast-feeding her child. You should be sure to update your policies accordingly to ensure that you are in compliance with federal and state law.

If you would like more information about this topic or if you need advice on how to draft your personnel policies to ensure compliance with applicable laws, please contact Sarah C. Matt.