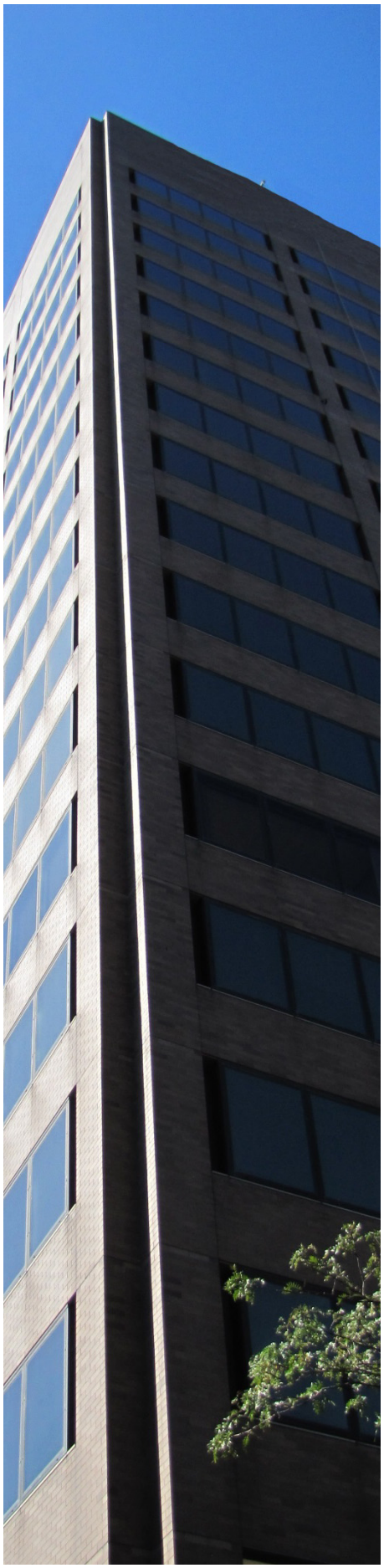


BOUSQUET HOLSTEIN PLLC

Prepared For:

Tompkins County Bar Association

2020 Employment Law Update CLE

Thursday, February 27, 2020

Presented By:
L. Micha Ordway, Jr.
lordway@bhlawpllc.com
315.701.6441

Bousquet Holstein PLLC
110 West Fayette Street | One Lincoln Center, Suite 1000
Syracuse, New York 13202
Main: 315.422.1500 | Fax: 315.422.3549

121 East Seneca Street | 3rd Floor | Ithaca, New York 14850
Main: 607.273.8500 | Fax: 607.697.9008

62 William Street | 3rd Floor | New York, New York 10005
Main: 212.381.4870

www.bhlawpllc.com

Firm Profile

Bousquet Holstein PLLC is a versatile law firm with office in Syracuse, Ithaca, and New York City representing clients across many industries. The firm's clientele is comprised of businesses and individual clients for whom we provide legal advice and counsel on a broad range of matters covering forty practice areas.

Our attorneys are counselors, strategists, and advocates whose goal is to develop a long-term relationship with each of our clients - one that is based on the trust that develops when a law firm understands the client's business and objectives, anticipates the client's needs, and provides prompt, high-quality, and consistently valuable service. An in-depth understanding of the economics of business transactions is one of the firm's defining characteristics. We enthusiastically address the challenges presented by new projects and have embraced new areas of the law as we anticipate our clients' needs for us to master emerging legal trends.

We are organized in practice groups - flexible collections of attorneys and other professionals who bring different facets of expertise to the particular area of practice. This interdisciplinary team approach allows us to achieve creative and complete solutions for our clients. Our professional staff does not fit into any preconceived mold. We have an extraordinarily talented group of individuals, each of whom has a passion for his or her work and for the connections made with our clients. In addition to a strong commitment to our practice, our professionals believe that it is their responsibility to contribute to our communities and make them better places for all to live. The commitments we have collectively and individually made to our community are an integral part of who we are.

Bousquet Holstein Practice Areas

Adoption and Family Planning
Agriculture
Alternative Dispute Resolution
Appellate
Assisted Reproductive Technology (ART)
Banking and Financial Institutions
Bankruptcy
Brownfields
Business Transactions
Collaborative Law and Mediation
Dual Citizenship
Economic Development Incentives
Employee Benefits & ERISA
Employment, Labor and Discrimination
Equipment Leasing and Finance
Government Relations
Health Care
Immigration
Intellectual Property
Land and Energy Law
Land Use, Zoning and State Environmental Quality Review
LGBT and Non-Traditional Families
Liquor Licensing and Compliance
Litigation
Matrimonial and Family Law
Mergers and Acquisitions
Municipal Law
Not-For-Profit Organizations
Opportunity Zones
Professional Practices
Public Finance
Qualified Domestic Relations Orders (QDROs)
Real Estate
Restaurant, Hospitality, and Beverage Law
Tax Controversy
Tax Planning and Advocacy
Telecommunications
Title IX Litigation
Trusts and Estates Planning & Administration
Unmanned Aircraft Systems/Unmanned Aerial Vehicles (Drones)
Venture Capital and Private Placement
Wineries and Vineyards

Employment, Labor & Discrimination Practice Group

In recent years, there has been an explosion of employment-related lawsuits. This trend is the result of several factors, including the growing awareness by employers and employees alike of their rights and responsibilities in the workplace, and the proliferation and development of new case law and statutes on discrimination and other employment topics. The complex and dynamic nature of this area of law increases the need for our clients to act with adequate knowledge and direction.

The Employment and Discrimination Practice Group provides representation to employers, large and small, and to employees. Our attorneys make it a priority to become familiar with our clients' businesses. We emphasize addressing employment and discrimination issues before they become problems and we advise our clients in all areas of human relations practices to satisfy an employer's business objectives while improving employee productivity and morale.

We have assisted our clients in the preparation of employment contracts, employee handbooks, and employment policies on sexual harassment, drug testing and employment references. Clients implementing these policies often consult us to ensure that they follow all relevant federal and state laws and regulations, minimize the potential for liability, and maintain employee morale. Our goals are always the same: to ensure compliance with all relevant laws, to limit exposure to liability, and to maintain a positive workplace atmosphere in which employees are treated fairly.

Our attorneys maintain expertise in several distinct areas, such as Title VII of the Civil Rights Act, the Age and Discrimination in Employment Act, the Americans with Disabilities Act, Wage and Hour Law, the Family Medical Leave Act, and many other employment laws and regulations.

In some cases, the deterioration of an employment relationship cannot be avoided. In these cases, the Employment and Discrimination Practice Group assists employers and employees in the separation process. Our counsel is often sought to ensure that employers follow appropriate procedures when severing the employment relationship, which regularly includes the negotiation and preparation of severance and release agreements.

We represent clients in all forms of adversarial proceedings and have provided representation before various federal and state agencies such as the New York State Division of Human Rights, the Department of Labor, the Unemployment Insurance Appeal Board and the Equal Employment Opportunity Commission. In every stage of these proceedings, from investigation and settlement conferences to hearings and appeals, our involvement has been highly effective.

Our Litigation experience includes federal and state court litigation of breach of employment contracts, age discrimination, sex discrimination, race discrimination, national origin discrimination, whistle-blower and retaliation, violation of non-compete agreements, and other employment-related claims.

We continually monitor developments in this dynamic area of law. By keeping clients aware of changes in the law, assisting in the development of sound employment policies and practices, and advocating on our clients' behalf, we reduce our clients' potential for liability and foster a more productive and satisfied workforce.

Contact Information
lordway@bhlawpllc.com
Ph. 315.701.6441
Fx. 315.423.2848

Practice Areas
Litigation
Employment Discrimination
Agriculture
Alternative Dispute Resolution
Appellate Law
Banking and Financial Institutions
Government Relations

Education
J.D., Albany Law School, 1997

B.A., Hamilton College, 1990

Admissions
New York
Massachusetts
United States District Court,
Northern and Western
District of New York

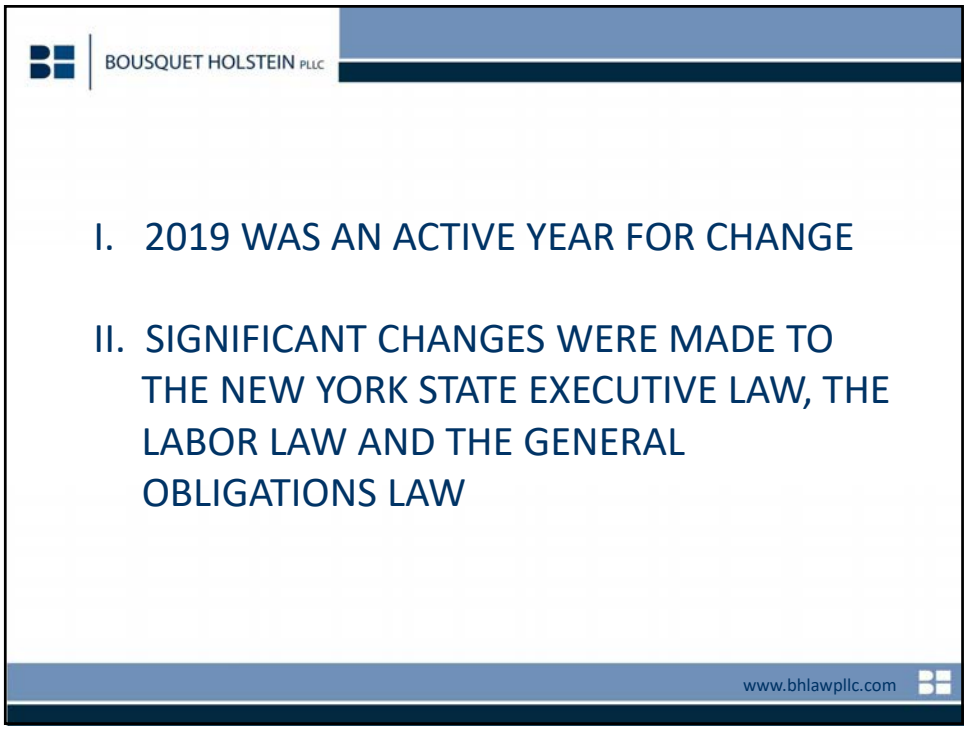
Micha is an experienced Labor and Employment and litigation attorney who has handled matters in a broad spectrum of practice areas. He has extensive experience advising employers and employees in matters involving labor and employment law and has the ability to understand both sides of his cases. Micha is a tough advocate for his clients who has handled many discrimination matters brought under Title VII, the New York State Human Rights in New York Division of Human Rights, the EEOC and in New York State and Federal Court. Micha has also litigated suits alleging violations of the Fair Labor Standards Act and New York Wage and Hour Law as well as wage and hour audits by the New York State and federal Departments of Labor. Micha has also argued appeals before the Second Circuit Court of Appeals, New York Court of Appeals and various appellate divisions.

In addition to his litigation practice, Micha is experienced in alternative dispute resolution and has used these techniques to successfully resolve matters for his clients. He is a member of the Roster of Qualified ADR Neutrals for the Third and Fifth Judicial Districts and is a mediator for the United States District Court for the Northern District of New York.

Micha is the Chair of Bousquet Holstein's Litigation Department and is a member of the firm's Management Committee. Prior to joining the firm, Micha practiced with a large law firm in Central New York and served as confidential law clerk to the Honorable Howard G. Munson, Senior United States District Judge and as senior confidential law clerk to the Honorable Gary L. Sharpe, United States Magistrate Judge.


BOUSQUET HOLSTEIN PLLC
2020
EMPLOYMENT LAW UPDATE
Presented by L. Micha Ordway, Jr.
Bousquet Holstein, PLLC
www.bhlawpllc.com

1


BOUSQUET HOLSTEIN PLLC
I. 2019 WAS AN ACTIVE YEAR FOR CHANGE
II. SIGNIFICANT CHANGES WERE MADE TO THE NEW YORK STATE EXECUTIVE LAW, THE LABOR LAW AND THE GENERAL OBLIGATIONS LAW
www.bhlawpllc.com

2

BOUSQUET HOLSTEIN PLLC

a. AUGUST 12, 2019 GOVERNOR SIGNED BILL ENACTING SIGNIFICANT CHANGES

- AMENDED THE EXECUTIVE LAW TO INCREASED PROTECTIONS FOR PROTECTED CLASSES AND SPECIAL PROTECTIONS FOR EMPLOYEES WHO HAVE BEEN SEXUALLY HARASSED
- AMENDED THE GENERAL OBLIGATIONS LAW IN RELATION TO NONDISCLOSURE PROVISIONS IN SETTLEMENT AGREEMENTS;
- AMENDED THE EXECUTIVE LAW, IN RELATION TO EXTENDING THE STATUTE OF LIMITATIONS FOR CLAIM RESULTING FROM UNLAWFUL OR DISCRIMINATORY PRACTICES CONSTITUTING SEXUAL HARASSMENT FROM ONE TO THREE YEARS

3

BOUSQUET HOLSTEIN PLLC

a. AUGUST 12, 2019 GOVERNOR SIGNED BILL ENACTING SIGNIFICANT CHANGES *(continued)*

- AMENDED THE LABOR LAW IN RELATION TO REQUIRING EMPLOYERS TO PROVIDE EMPLOYEES NOTICE OF THEIR SEXUAL HARASSMENT PREVENTION TRAINING PROGRAM IN WRITING IN ENGLISH AND IN EMPLOYEES' PRIMARY LANGUAGES;
- AMENDED THE LABOR LAW IN RELATION TO THE MODEL SEXUAL HARASSMENT PREVENTION GUIDANCE DOCUMENT AND SEXUAL HARASSMENT PREVENTION POLICY;
- DIRECTED THE COMMISSIONER OF LABOR TO CONDUCT A STUDY ON STRENGTHENING SEXUAL HARASSMENT PREVENTION LAWS.

www.bhlawpllc.com

4

BOUSQUET HOLSTEIN PLLC

b. THE SPECIFIC CHANGES TO THE EXECUTIVE LAW:

i. **SECTION 292 OF THE EXECUTIVE LAW WAS AMENDED BY ADDING A NEW SUBDIVISION 37 WHICH READS:**

1. THE TERM "PRIVATE EMPLOYER" AS USED IN SECTION 297 OF THE EXECUTIVE LAW SHALL INCLUDE ANY PERSON, COMPANY, CORPORATION, LABOR ORGANIZATION OR ASSOCIATION.
    a. IT DOES NOT INCLUDE THE STATE OR ANY LOCAL SUBDIVISION THEREOF, OR ANY STATE OR LOCAL DEPARTMENT, AGENCY, BOARD OR COMMISSION.
2. THIS CHANGE EXPANDS THE SCOPE OF THE LAW TO ALL PRIVATE EMPLOYERS IN THE STATE.
    a. FORMERLY EMPLOYERS HAD TO HAVE AT LEAST FOUR EMPLOYEES IN ORDER TO BE COVERED BY THE LAW.
    b. THIS CHANGE IN DEFINITION BECAME EFFECTIVE ON **FEBRUARY 8, 2020.**

5

BOUSQUET HOLSTEIN PLLC

b. THE SPECIFIC CHANGES TO THE EXECUTIVE LAW:

(CONTINUED)

ii. **SECTION 292 OF THE EXECUTIVE LAW WAS ALSO AMENDED TO INCLUDE A NEW SECTION (h), WHICH MAKES IT AN UNLAWFUL DISCRIMINATORY PRACTICE:**

1. (h) FOR AN EMPLOYER, LICENSING AGENCY, EMPLOYMENT AGENCY OR LABOR ORGANIZATION TO SUBJECT ANY INDIVIDUAL TO **HARASSMENT** BECAUSE OF AN INDIVIDUAL'S AGE, RACE, CREED, COLOR, NATIONAL ORIGIN, SEXUAL ORIENTATION, GENDER IDENTITY OR EXPRESSION, MILITARY STATUS, SEX, DISABILITY, PREDISPOSING GENETIC CHARACTERISTICS, FAMILIAL STATUS, MARITAL STATUS, DOMESTIC VIOLENCE VICTIM STATUS,
2. OR BECAUSE THE INDIVIDUAL HAS OPPOSED ANY PRACTICES FORBIDDEN UNDER THIS ARTICLE OR BECAUSE THE INDIVIDUAL HAS FILED A COMPLAINT, TESTIFIED OR ASSISTED IN ANY PROCEEDING UNDER THIS ARTICLE,
3. **REGARDLESS OF WHETHER SUCH HARASSMENT WOULD BE CONSIDERED SEVERE OR PERVASIVE UNDER PRECEDENT APPLIED TO HARASSMENT CLAIMS.**

6

BOUSQUET HOLSTEIN PLLC

b. THE SPECIFIC CHANGES TO THE EXECUTIVE LAW:

(CONTINUED)

4. SUCH HARASSMENT IS AN UNLAWFUL DISCRIMINATORY PRACTICE WHEN IT SUBJECTS AN INDIVIDUAL TO INFERIOR TERMS, CONDITIONS OR PRIVILEGES OF EMPLOYMENT BECAUSE OF THE INDIVIDUAL'S MEMBERSHIP IN ONE OR MORE OF THESE PROTECTED CATEGORIES.

5. **THE FACT THAT SUCH INDIVIDUAL DID NOT MAKE A COMPLAINT ABOUT THE HARASSMENT TO SUCH EMPLOYER, LICENSING AGENCY, EMPLOYMENT AGENCY OR LABOR ORGANIZATION SHALL NOT BE DETERMINATIVE OF WHETHER SUCH EMPLOYER, LICENSING AGENCY, EMPLOYMENT AGENCY OR LABOR ORGANIZATION SHALL BE LIABLE.**

6. NOTHING IN THIS SECTION SHALL IMPLY THAT AN EMPLOYEE MUST DEMONSTRATE THE EXISTENCE OF AN INDIVIDUAL TO WHOM THE EMPLOYEE'S TREATMENT MUST BE COMPARED.

7. **IT SHALL BE AN AFFIRMATIVE DEFENSE TO LIABILITY UNDER THIS SUBDIVISION THAT THE HARASSING CONDUCT DOES NOT RISE ABOVE THE LEVEL OF WHAT A REASONABLE VICTIM OF DISCRIMINATION WITH THE SAME PROTECTED CHARACTERISTIC OR CHARACTERISTICS WOULD CONSIDER PETTY SLIGHTS OR TRIVIAL INCONVENIENCES.**

7

BOUSQUET HOLSTEIN PLLC

b. THE SPECIFIC CHANGES TO THE EXECUTIVE LAW:

(CONTINUED)

iii. THESE CHANGES ARE EXTREMELY SIGNIFICANT

1. THE LEGAL DEFINITION OF "HARASSMENT" IS NO LONGER LIMITED TO SEXUAL HARASSMENT.
   a. IT APPLIES TO ALL OF THE FOLLOWING PROTECTED CATEGORIES: AGE, RACE, CREED, COLOR, NATIONAL ORIGIN, SEXUAL ORIENTATION, GENDER IDENTITY OR EXPRESSION, MILITARY STATUS, SEX, DISABILITY, PREDISPOSING GENETIC CHARACTERISTICS, FAMILIAL STATUS, MARITAL STATUS, DOMESTIC VIOLENCE VICTIM STATUS

2. THE SEVERE AND PERSUASIVE STANDARD HAS ALSO BEEN ELIMINATED
   a. PREVIOUSLY, WORKPLACE CONDUCT THAT IMPACTED ON AN EMPLOYEE IN PROTECTED CATEGORY WAS NOT ACTIONABLE AS HARASSMENT UNLESS IT ROSE TO THE LEVEL OF BEING SEVERE OR PERVASIVE

www.bhlawpllc.com

8

BOUSQUET HOLSTEIN PLLC

iii. THESE CHANGES ARE EXTREMELY SIGNIFICANT *(CONTINUED)*

b. INSTEAD, A COMPLAINANT IS ONLY REQUIRED DEMONSTRATE THAT S/HE WAS SUBJECTED TO INFERIOR TERMS, CONDITIONS OR PRIVILEGES OF EMPLOYMENT BECAUSE OF MEMBERSHIP IN ONE OR MORE PROTECTED CATEGORIES.
c. ALTHOUGH THE AMENDED STATUTE INCLUDES AN AFFIRMATIVE DEFENSE, ITS "PETTY SLIGHTS OR TRIVIAL INCONVENIENCES" STANDARD SIGNIFICANTLY LOWERS THE BAR.
d. THIS COULD MEAN THAT ALL CONDUCT THAT A REASONABLE PERSON WITH THE SAME PROTECTED CHARACTERISTICS WOULD CONSIDER MORE THAN "PETTY SLIGHTS OR TRIVIAL INCONVENIENCES" IS NOW ACTIONABLE.
e. THESE CHANGES TO SECTION 296 HAVE ALREADY TAKEN EFFECT.
f. THESE CHANGES DIFFER DRAMATICALLY FROM TITLE VII WHICH COULD MEAN THAT WE WILL SEE MORE DISCRIMINATION/HARASSMENT CLAIMS BEING PURSUED UNDER NY LAW AND IN NY FORUMS SUCH AS THE NYS DHR.

9

BOUSQUET HOLSTEIN PLLC

iii. THESE CHANGES ARE EXTREMELY SIGNIFICANT *(CONTINUED)*

3. THE AMENDMENTS WEAKEN THE FARAGHER-ELLERTH DEFENSE FOR EMPLOYERS BY ELIMINATING THE REPORTING REQUIREMENT
   a. UNDER FARAGHER-ELLERTH, AN EMPLOYER CAN AVOID LIABILITY FOR HOSTILE WORK ENVIRONMENT/HARASSMENT CLAIMS WHERE IT CAN DEMONSTRATE THAT:
      i. IT EXERCISED REASONABLE CARE TO PREVENT AND PROMPTLY CORRECT THE HARASSING BEHAVIOR BY USING AND ENFORCING AN HARASSMENT POLICY; AND.
      ii. THE EMPLOYEE UNREASONABLY FAILED TO TAKE ADVANTAGE OF ANY PREVENTATIVE OR CORRECTIVE OPPORTUNITIES PROVIDED BY THE EMPLOYER BY NOT TAKING ADVANTAGE OF REPORTING PROCEDURES OUTLINED IN AN ANTI-HARASSMENT POLICY.
      iii. THIS MEANS THAT EMPLOYERS WHO COMPLIED WITH EARLIER LEGISLATION REQUIRING ADOPTION OF SEXUAL HARASSMENT POLICIES ARE NO LONGER PROTECTED FROM POTENTIAL LIABILITY.

   SEE FARAGHER-ELLERTH DEFENSE, PRACTICAL LAW GLOSSARY ITEM 4-502-6644

www.bhlawpllc.com

10

BOUSQUET HOLSTEIN PLLC

iv. SECTION 296-d WAS ALSO AMENDED TO PROHIBIT UNLAWFUL DISCRIMINATORY PRACTICES AGAINST NON-EMPLOYEES

1. PREVIOUSLY THIS SECTION PROHIBITED ONLY SEXUAL HARASSMENT OF NON-EMPLOYEES. IT NOW IS EXTENDED TO ALL UNLAWFUL DISCRIMINATORY PRACTICES.
2. NOW AN EMPLOYER CAN BE HELD LIABLE TO A NON-EMPLOYEE WHO IS A CONTRACTOR, SUBCONTRACTOR, VENDOR, CONSULTANT OR OTHER PERSON PROVIDING SERVICES PURSUANT TO A CONTRACT IN THE WORKPLACE
   a. OR THE EMPLOYEES OF SUCH CONTRACTOR, ETC.
   b. WHEN THE EMPLOYER, ITS AGENTS OR SUPERVISORS KNEW OR SHOULD HAVE KNOWN THAT SUCH NON-EMPLOYEE WAS SUBJECTED TO AN UNLAWFUL DISCRIMINATORY PRACTICE IN THE EMPLOYER'S WORKPLACE,
   c. AND THE EMPLOYER FAILED TO TAKE IMMEDIATE AND APPROPRIATE CORRECTIVE ACTION.
   d. DEFENSE: THE STATUTE DOES PERMIT REVIEW OF THE EXTENT OF THE EMPLOYER'S CONTROL WHICH THE EMPLOYER MAY HAVE OVER THE PERSON WHO ENGAGED IN THE UNLAWFUL DISCRIMINATORY PRACTICE

11

BOUSQUET HOLSTEIN PLLC

v. INCREASED FINANCIAL PENALTIES AND ATTORNEY'S FEES

1. SECTION 297 (4)(c) & 9 HAVE BEEN AMENDED TO PERMIT A PREVAILING COMPLAINANT TO RECOVER INCLUDE PUNITIVE DAMAGES AGAINST A PRIVATE EMPLOYER
2. SECTION 297 (10) NOW ALLOWS A PREVAILING PARTY TO RECOVER REASONABLE ATTORNEYS FEES
   a. HOWEVER, IN ORDER FOR A PREVAILING EMPLOYER RECOVER SUCH REASONABLE ATTORNEY'S FEES IT MUST:
      i. MAKE A MOTION REQUESTING SUCH FEES AND SHOW THAT THE ACTION OR PROCEEDING BROUGHT WAS **FRIVOLOUS**.
      ii. IN A PROCEEDING BROUGHT IN THE DIVISION OF HUMAN RIGHTS, THE COMMISSIONER MAY ONLY AWARD ATTORNEY'S FEES AS PART OF A FINAL ORDER AFTER A PUBLIC HEARING.
      iii. ATTORNEY'S FEES MAY NOT BE AWARDED TO THE DHR AND NO FEES MANY BE AWARDED AGAINST THE DHR, EXCEPT IN A CASE IN WHICH THE DIVISION IS A PARTY TO THE ACTION OR THE PROCEEDING IN THE DIVISION'S CAPACITY AS AN EMPLOYER.

12

BOUSQUET HOLSTEIN PLLC

vi. SECTION 297 (5) WAS AMENDED TO INCREASE THE STATUTE OF LIMITATIONS FOR SEXUAL HARASSMENT CLAIMS FROM ONE YEAR TO THREE YEARS.

1. THE LIMITATIONS FOR ALL OTHER UNLAWFUL DISCRIMINATION CLAIMS REMAINS ONE YEAR.
2. **PRACTICE NOTE:** THE STATUTE OF LIMITATIONS FOR FILING DISCRIMINATION OR HARASSMENT CLAIMS IN NYS SUPREME COURT IS STILL THREE YEARS
3. THIS AMENDMENT MERELY MEANS THAT SEXUAL HARASSMENT CLAIMS MAY BE BROUGHT IN THE DHR WITHIN THREE YEARS INSTEAD ONE YEAR.
4. THIS AMENDMENT DOES NOT TAKE EFFECT UNTIL **AUGUST 12, 2020.**

13

BOUSQUET HOLSTEIN PLLC

vii. PRACTICE NOTE: NOTICE OF CLAIM REQUIREMENT FOR CERTAIN RESPONDENTS.

viii. PRACTICE NOTE: FAIR LABOR STANDARDS ACT SETTLEMENTS MUST BE APPROVED BY THE DOL OR COURT – PRIVATE SETTLEMENT AGREEMENTS CANNOT BE USED TO WAIVE THE RIGHTS AFFORDED TO EMPLOYEES UNDER THE FLSA

1. RAISES ISSUES WITH THE SCOPE OF GENERAL RELEASES USED IN SEVERANCE AGREEMENTS.

www.bhlawpllc.com

14

BOUSQUET HOLSTEIN PLLC

c. THE SPECIFIC CHANGES TO SECTION 5-336 OF THE GENERAL OBLIGATIONS LAW:

i. **SECTION 5-336 (1)(a) WAS AMENDED TO PROHIBIT A SETTLEMENT AGREEMENT THAT RESOLVES ANY DISCRIMINATION CLAIM FROM INCLUDING A CONFIDENTIALITY/NON-DISCLOSURE PROVISION**

1. **UNLESS THE CONDITION OF CONFIDENTIALITY IS THE COMPLAINANT'S PREFERENCE.**

2. THE STATUTORY LANGUAGE ACTUALLY STATES THAT "NO EMPLOYER, ITS OFFICERS OR EMPLOYEES SHALL HAVE THE AUTHORITY" TO INCLUDE SUCH A PROVISION IN A SETTLEMENT AGREEMENT.

15

BOUSQUET HOLSTEIN PLLC

ii. **SECTION 5-336 (1)(b) WAS ALSO AMENDED TO STATE THAT:**

1. ANY SUCH TERM OR CONDITION MUST ALSO BE PROVIDED IN WRITING TO ALL PARTIES IN PLAIN ENGLISH, AND, IF APPLICABLE, THE PRIMARY LANGUAGE OF THE COMPLAINANT, AND
2. THE COMPLAINANT SHALL HAVE **TWENTY-ONE DAYS** TO CONSIDER SUCH TERM OR CONDITION.
3. IF AFTER **TWENTY-ONE DAYS** SUCH TERM OR CONDITION IS THE COMPLAINANT'S PREFERENCE, SUCH PREFERENCE SHALL BE MEMORIALIZED IN AN AGREEMENT SIGNED BY ALL PARTIES.
4. FOR A PERIOD OF AT LEAST **SEVEN DAYS** FOLLOWING THE EXECUTION OF SUCH AGREEMENT, THE COMPLAINANT MAY REVOKE THE AGREEMENT,
5. AGREEMENT SHALL NOT BECOME EFFECTIVE OR BE ENFORCEABLE UNTIL SUCH REVOCATION PERIOD HAS EXPIRED.

www.bhlawpllc.com

16

BOUSQUET HOLSTEIN PLLC

iii. SECTION 5-336 (1)(c) WAS ALSO AMENDED TO VOID ANY TERMS OR CONDITIONS THAT PREVENT A COMPLAINANT FROM COOPERATING WITH A STATE, FEDERAL OR LOCAL AGENCY SUCH AS THE EEOC OR THE DHR OR

1. OR FROM FILING OR DISCLOSING ANY FACTS NECESSARY TO RECEIVE UNEMPLOYMENT INSURANCE, MEDICAID, OR OTHER PUBLIC BENEFITS.

    a. **CHANGE IN LAW DOES NOT PROHIBIT NON-DISCLOSURE OF AMOUNT OF SETTLEMENT.**

17

BOUSQUET HOLSTEIN PLLC

iv. SECTION 5-336 (2) WAS ADDED TO FURTHER PROHIBITS THE USE OF NON-DISCLOSURE PROVISIONS IN ANY EMPLOYMENT CONTRACT THAT WOULD PREVENT:

1. "THE DISCLOSURE OF FACTUAL INFORMATION RELATED TO ANY **FUTURE CLAIM** OF DISCRIMINATION…" (EMPHASIS ADDED)
2. SUCH AN AGREEMENT IS VOID AND UNENFORCEABLE TO THE EXTENT THAT IT PROHIBITS SUCH DISCLOSURE **UNLESS** THE AGREEMENT NOTIFIES THE EMPLOYEE DOES NOT PROHIBIT HIM/HER FROM:
3. "SPEAKING WITH LAW ENFORCEMENT, THE EQUAL EMPLOYMENT OPPORTUNITY COMMISSION, THE STATE DIVISION OF HUMAN RIGHTS, A LOCAL COMMISSION ON HUMAN RIGHTS, OR AN ATTORNEY RETAINED BY THE EMPLOYEE OR POTENTIAL EMPLOYEE."
4. EFFECTIVE JANUARY 1, 2020

18

BOUSQUET HOLSTEIN PLLC

d. PREVIOUSLY, NEW YORK LAW ONLY PROHIBITED THE USE OF MANDATORY ARBITRATION CLAUSES FOR SEXUAL HARASSMENT CLAIMS.

i. THIS LAW HAS NOW BEEN EXPANDED TO PROHIBIT MANDATORY ARBITRATION CLAUSES FOR ALL DISCRIMINATION AND HARASSMENT CLAIMS – NOT JUST SEXUAL HARASSMENT.

ii. PRACTICE NOTE: IN LATIF V. MORGAN STANLEY, 2019 WL 2610985 (S.D.N.Y. JUNE 26, 2019), THE DISTRICT COURT ANALYZED THE APPARENT CONFLICT BETWEEN CPLR 7515, WHICH PROHIBITS MANDATORY ARBITRATION CLAUSES AND THE FEDERAL ARBITRATION ACT.

iii. THE COURT HELD THAT THE "WHEN STATE LAW PROHIBITS OUTRIGHT THE ARBITRATION OF A PARTICULAR TYPE OF CLAIM, THE ANALYSIS IS STRAIGHTFORWARD: THE CONFLICTING RULE IS DISPLACED BY THE FAA." QUOTING, AT&T MOBILITY LLC V. CONCEPCION, 563 U.S. 333, 341 (2011).

1. AS SUCH, IT IS LIKELY THAT THE FAA WILL PREEMPT SECTION 5-336 OF THE GENERAL OBLIGATIONS.

19

BOUSQUET HOLSTEIN PLLC

e. CHANGES TO THE LABOR LAW:

i. SECTION 201-G OF THE LABOR LAW WAS AMENDED BY ADDING A NEW SUBDIVISION 2-a AND 4

ii. SUBDIVISION 2-a (a-d)

1. SECTION 2-a (a) REQUIRES EVERY EMPLOYER TO PROVIDE EMPLOYEES, A NOTICE CONTAINING SUCH EMPLOYER'S SEXUAL HARASSMENT PREVENTION POLICY AND THE INFORMATION PRESENTED AT SUCH EMPLOYER'S SEXUAL HARASSMENT PREVENTION TRAINING PROGRAM.
   a. THE NOTICE MUST BE IN WRITING
   b. IN ENGLISH AND IN THE LANGUAGE IDENTIFIED BY EACH EMPLOYEE AS THE PRIMARY LANGUAGE OF SUCH EMPLOYEE
   c. IT MUST ALSO BE PROVIDED AT THE TIME OF HIRING AND AT EVERY ANNUAL SEXUAL HARASSMENT PREVENTION TRAINING PROVIDED PURSUANT TO SUBDIVISION TWO OF THIS SECTION.

20

BOUSQUET HOLSTEIN PLLC

ii. SUBDIVISION 2-a (a-d) *(continued)*

2. SECTION 2-a (b) STATES THAT THE COMMISSIONER SHALL PREPARE TEMPLATES OF THE MODEL SEXUAL HARASSMENT PREVENTION POLICY.
    a. ALL SUCH TEMPLATES SHALL BE MADE AVAILABLE TO EMPLOYERS IN SUCH MANNER AS DETERMINED BY THE COMMISSIONER.
3. SECTION 2-a (c) STATES THAT WHEN AN EMPLOYEE IDENTIFIES AS HIS OR HER PRIMARY LANGUAGE A LANGUAGE FOR WHICH A TEMPLATE IS NOT AVAILABLE FROM THE COMMISSIONER, THE EMPLOYER SHALL COMPLY WITH THIS SUBDIVISION BY PROVIDING THAT EMPLOYEE AN ENGLISH-LANGUAGE NOTICE.
4. SECTION 2-a (d) STATES THAT AN EMPLOYER SHALL NOT BE PENALIZED FOR ERRORS OR OMISSIONS IN THE NON-ENGLISH PORTIONS OF ANY NOTICE PROVIDED BY THE COMMISSIONER.

21

BOUSQUET HOLSTEIN PLLC

iii. SECTION 201-G (4) :

1. AS OF **JANUARY 1, 2020**, AND EVERY FOUR YEARS THEREAFTER, THE DEPARTMENT OF LABOR IN CONSULTATION WITH THE DHR IS REQUIRED TO EVALUATE THE IMPACT OF ITS CURRENT MODEL SEXUAL HARASSMENT PREVENTION GUIDANCE DOCUMENT AND SEXUAL HARASSMENT PREVENTION POLICY.
2. THEREAFTER THE DEPARTMENT OF LABOR MUST UPDATE THE MODEL SEXUAL HARASSMENT PREVENTION GUIDANCE DOCUMENT AND SEXUAL HARASSMENT PREVENTION POLICY AS NEEDED.

22

BOUSQUET HOLSTEIN PLLC

iv. PRACTICE NOTE: 2018'S AMENDMENT TO 201-g (1)(a):

1. THE AMENDMENT REQUIRED EMPLOYERS TO ADOPT A SEXUAL HARASSMENT PREVENTION POLICY:
2. INCLUDE A PROCEDURE FOR THE TIMELY AND CONFIDENTIAL INVESTIGATION OF COMPLAINTS AND **ENSURE DUE PROCESS FOR ALL PARTIES.**
3. **DUE PROCESS IS NOT DEFINED IN THE STATUTE EXPLICITLY.**
4. INSTEAD IT REQUIRES COMPANIES TO HAVE A POLICY THAT EITHER EQUALS OR EXCEEDS THE STANDARDS OF THE MODEL POLICY
    a. IT NEVER EXPLAINS WHAT IS MEANT BY DUE PROCESS.
5. PAGE FIVE OF THE MODEL POLICY STATES:
    a. **ALL PERSONS** INVOLVED, **INCLUDING COMPLAINANTS, WITNESSES AND ALLEGED HARASSERS** WILL BE ACCORDED DUE PROCESS, AS OUTLINED BELOW, TO PROTECT THEIR RIGHTS TO A FAIR AND IMPARTIAL INVESTIGATION." (EMPHASIS ADDED).

23

BOUSQUET HOLSTEIN PLLC

iv. PRACTICE NOTE: 2018'S AMENDMENT TO 201-g (1)(a), *(CONTINUED):*

6. PAGE SIX OF THE MODEL POLICY OUTLINES THAT THE COMPANY MUST (IN GENERAL TERMS) COLLECT RELEVANT DOCUMENTS, INTERVIEW RELEVANT PARTIES, SUMMARIZE THEIR FINDINGS IN A WRITING, AND INFORM PARTIES ABOUT THE FINAL DETERMINATION.
7. THE AMENDMENT DOES NOT CREATE A PRIVATE RIGHT OF ACTION FOR ANY BREACH OF THE DUE PROCESS RIGHT DUE TO EITHER PARTY.
8. IT ALSO DOES NOT CROSS REFERENCE THE PRIVATE RIGHT OF ACTION THAT EXISTS UNDER THE HRL.

www.bhlawpllc.com

24

BOUSQUET HOLSTEIN PLLC

III. LABOR LAW EXPANDED TO PROTECT REPRODUCTIVE HEALTH DECISIONS:

a. SECTION 203-e OF THE LABOR LAW CREATED TO PROTECT EMPLOYEE RIGHT (AND THAT OF DEPENDENT'S) TO MAKE DECISIONS CONCERNING REPRODUCTIVE HEALTH.

i. THE NEW LAW PROHIBITS AN EMPLOYER FROM TAKING ANY DISCRIMINATORY OR RETALIATORY ACTION AGAINST AN EMPLOYEE BECAUSE THE EMPLOYEE OR AN EMPLOYEE'S DEPENDENT HAS MADE ANY HEALTH DECISION RELATING TO THEIR REPRODUCTIVE RIGHTS.

ii. EXAMPLES OF PROTECTED DECISIONS INCLUDE THE USE OF ANY PARTICULAR DRUG, DEVICE OR MEDICAL SERVICE CONCERNING THEIR REPRODUCTIVE HEALTH.

iii. THE NEW LAW IS INTENDED TO ENSURE THAT AN EMPLOYEE'S, OR THEIR DEPENDENT'S, DECISION TO USE BIRTH CONTROL OR RECEIVE ABORTION SERVICES, CANNOT ADVERSELY AFFECT THEIR EMPLOYMENT

25

BOUSQUET HOLSTEIN PLLC

b. THE NEW LAW PROHIBITS EMPLOYERS FROM:

i. TERMINATING, DEMOTING, OR TAKING ACTIONS THAT ADVERSELY AFFECT

1. AN EMPLOYEE'S WORK DUTIES OR OTHER TERMS AND CONDITIONS OF EMPLOYMENT AS A RESULT OF THE EMPLOYEE'S OR THEIR DEPENDENT'S REPRODUCTIVE HEALTHCARE DECISIONS.

ii. REQUIRING EMPLOYEES FROM WAIVING THEIR RIGHTS TO ANY REPRODUCTIVE HEALTHCARE DECISIONS.

iii. GAINING ACCESS TO AN EMPLOYEE'S OR THEIR DEPENDENT'S PERSONAL INFORMATION RELATING TO REPRODUCTIVE HEALTHCARE DECISIONS WITHOUT THE EMPLOYEE'S **INFORMED WRITTEN CONSENT.**

c. REMEDIES FOR VIOLATION OF LABOR LAW 203-e INCLUDE A PRIVATE RIGHT OF ACTION

d. EMPLOYEES PROVING A VIOLATION OF THE NEW LAW MAY RECOVER SUBSTANTIAL DAMAGES, INCLUDING:

i. AN AWARD OF BACK PAY, LOST BENEFITS AND THEIR REASONABLE ATTORNEYS' FEES;

ii. INJUNCTIVE RELIEF;

iii. AN ORDER OF REINSTATEMENT; AND/OR

iv. AN AWARD OF "DOUBLE DAMAGES," UNLESS THE EMPLOYER CAN PROVE A GOOD FAITH BASIS TO BELIEVE THAT ITS ACTIONS WERE IN COMPLIANCE WITH THE LAW.

www.bhlawpllc.com

26

BOUSQUET HOLSTEIN PLLC

e. THE NEW LAW INCLUDES SPECIAL PROVISIONS RELATING TO RETALIATION.

i. ANY ACT OF RETALIATION FOR AN EMPLOYEE EXERCISING ANY RIGHTS GRANTED UNDER THIS SECTION SHALL SUBJECT AN EMPLOYER TO SEPARATE CIVIL PENALTIES UNDER THIS SECTION.

ii. RETALIATION OR RETALIATORY PERSONNEL ARE DEFINED AS DISCHARGING, SUSPENDING, DEMOTING, OR OTHERWISE PENALIZING AN EMPLOYEE FOR:

1. MAKING OR THREATENING TO MAKE, A COMPLAINT TO AN EMPLOYER, CO-WORKER, OR TO A PUBLIC BODY, THAT RIGHTS GUARANTEED UNDER THIS SECTION HAVE BEEN VIOLATED;
2. CAUSING TO BE INSTITUTED ANY PROCEEDING UNDER OR RELATED TO THIS SECTION; OR
3. PROVIDING INFORMATION TO, OR TESTIFYING BEFORE, ANY PUBLIC BODY CONDUCTING AN INVESTIGATION, HEARING, OR INQUIRY INTO ANY SUCH VIOLATION OF A LAW, RULE, OR REGULATION BY SUCH EMPLOYER.

27

BOUSQUET HOLSTEIN PLLC

f. THE NEW LAW ALSO MANDATES THAT EMPLOYERS INCLUDE IN THEIR EMPLOYEE HANDBOOKS

i. A NOTICE TO THEIR EMPLOYEES ABOUT THEIR RIGHTS AND REMEDIES UNDER THE LAW.

g. CONSEQUENTLY, EMPLOYERS SHOULD REVIEW THEIR EMPLOYEE MANUALS FOR NECESSARY UPDATES AND SPECIFICALLY INCLUDE A SECTION ADDRESSING AN EMPLOYEE'S RIGHTS AND REMEDIES UNDER THIS LAW.

h. EMPLOYERS SHOULD ALSO ENSURE THAT ALL MANAGEMENT PERSONNEL ARE FAMILIAR WITH THE LAW, AND THAT ALL INFORMATION RELATING TO AN EMPLOYEE'S REPRODUCTIVE DECISION-MAKING CANNOT BE ACCESSED.

28

BOUSQUET HOLSTEIN PLLC

IV. WAGE AND SALARY INQUIRIES NOW PROHIBITED.

a. LABOR LAW SECTION 194-a HAS BEEN AMENDED TO PROHIBIT EMPLOYERS FROM MAKING WAGE OR SALARY INQUIRIES WITH JOB APPLICANTS AND EMPLOYEES.

b. EFFECTIVE ON JANUARY 6, 2020.

c. NO EMPLOYER SHALL:

   i. RELY ON THE WAGE OR SALARY HISTORY OF AN APPLICANT IN DETERMINING WHETHER TO OFFER EMPLOYMENT OR IN DETERMINING THE WAGES OR SALARY.

   ii. ORALLY OR IN WRITING SEEK, REQUEST, OR REQUIRE THE WAGE OR SALARY HISTORY FROM AN **APPLICANT OR CURRENT EMPLOYEE** AS A CONDITION TO BE INTERVIEWED, OR AS A CONDITION OF CONTINUED EMPLOYMENT.

   iii. ORALLY OR IN WRITING SEEK, REQUEST, OR REQUIRE WAGE OR SALARY HISTORY OF AN **APPLICANT OR CURRENT EMPLOYEE** FROM A CURRENT OR FORMER EMPLOYER.

29

BOUSQUET HOLSTEIN PLLC

NO EMPLOYER SHALL…. *CONTINUED*:

   iv. REFUSE TO INTERVIEW, HIRE, PROMOTE, OR OTHERWISE EMPLOY OR RETALIATE AGAINST **ANY APPLICANT OR CURRENT EMPLOYEE** BASED UPON PRIOR WAGE OR SALARY HISTORY.

   v. REFUSE TO INTERVIEW, HIRE, PROMOTE, OR OTHERWISE EMPLOY OR RETALIATE AGAINST AN **APPLICANT OR CURRENT EMPLOYEE** BECAUSE SUCH APPLICANT OR EMPLOYEE DID NOT PROVIDE SUCH INFORMATION.

   vi. REFUSE TO INTERVIEW, HIRE, PROMOTE, OR OTHERWISE EMPLOY OR RETALIATE AGAINST AN **APPLICANT OR CURRENT OR FORMER EMPLOYEE** BECAUSE THE APPLICANT OR CURRENT OR FORMER EMPLOYEE FILED A COMPLAINT WITH THE DEPARTMENT OF LABOR ALLEGING A VIOLATION OF THIS LAW.

30

BOUSQUET HOLSTEIN PLLC

d. EXCEPTION: NOTHING IN THE LAW PREVENTS AN APPLICANT OR CURRENT EMPLOYEE FROM **VOLUNTARILY, AND WITHOUT PROMPTING**, DISCLOSING OR VERIFYING WAGE OR SALARY HISTORY. THIS MAY OCCUR FOR THE PURPOSE OF NEGOTIATING WAGES OR SALARY.
    i. AN EMPLOYER MAY ALSO CONFIRM WAGE OR SALARY HISTORY IF AT THE TIME OF AN OFFER OF EMPLOYMENT, THE APPLICANT OR CURRENT EMPLOYEE RESPONDS TO THE OFFER BY PROVIDING PRIOR WAGE OR SALARY INFORMATION TO NEGOTIATE A HIGHER WAGE OR SALARY THAN THAT OFFERED BY THE EMPLOYER.
e. REMEDIES
    i. PRIVATE RIGHT OF ACTION TO RECOVER MONETARY DAMAGES SUSTAINED AS A RESULT OF SUCH VIOLATION.
    ii. IF SUCCESSFUL, THE AGGRIEVED PERSON MAY BE ALSO AWARDED INJUNCTIVE RELIEF AS WELL AS THEIR REASONABLE ATTORNEYS' FEES.
    iii. EMPLOYERS SHOULD CONSIDER HOW THIS NEW LAW AFFECTS THEIR INTERVIEW AND RECRUITMENT PROCESSES.

31

BOUSQUET HOLSTEIN PLLC

REMEDIES *CONTINUED*:

IV. FOR EXAMPLE, APPLICATIONS FOR EMPLOYMENT OFTEN INCLUDE REQUESTS FOR INFORMATION ABOUT WAGES AND SALARY EARNED IN PRIOR EMPLOYMENT.
    1. ALL EMPLOYMENT RELATED DOCUMENTATION SHOULD BE REVISED TO BECOME COMPLIANT WITH THE NEW LAW.

V. IT IS A TYPICAL SUBJECT OF AN INTERVIEW PROCESS TO INQUIRE ABOUT AN APPLICANT'S PRIOR WAGE OR SALARY HISTORY.
    1. PERSONS RESPONSIBLE FOR INTERVIEWING JOB APPLICANTS AND PERSONS RESPONSIBLE FOR DISCUSSING AND NEGOTIATING WAGE/SALARY INCREASES WITH EMPLOYEES SHOULD BE EDUCATED ON THE REQUIREMENTS OF THE NEW LAW.

VI. THE LAW APPLIES TO BE PRIVATE AND PUBLIC EMPLOYERS

32

BOUSQUET HOLSTEIN PLLC

V. SECTION 194 OF THE LABOR LAW WAS ALSO AMENDED TO PROHIBIT PAY RATE DIFFERENTIALS FOR EMPLOYEES IN PROTECTED CLASSES.

a. AMENDMENT WAS EFFECTIVE IN OCTOBER 2019.

b. MANDATES EQUAL PAY AMONG EMPLOYEES WHO PERFORM "EQUAL WORK" REQUIRES EQUAL SKILL, EFFORT AND RESPONSIBILITY, AND WHICH IS PERFORMED UNDER SIMILAR WORKING CONDITIONS, OR

c. "SUBSTANTIALLY SIMILAR WORK" SUBSTANTIALLY SIMILAR WORK, WHEN VIEWED AS A COMPOSITE OF SKILL, EFFORT, AND RESPONSIBILITY, AND PERFORMED UNDER SIMILAR WORKING CONDITIONS.

i. PAY RATE DIFFERENTIALS ARE STILL PERMITTED WHERE BASED UPON:

1. A SENIORITY SYSTEM;

2. A MERIT SYSTEM;

33

BOUSQUET HOLSTEIN PLLC

3. A SYSTEM WHICH MEASURES EARNINGS BY QUANTITY OR QUALITY OF PRODUCTION; OR

4. A BONA FIDE FACTOR OTHER THAN STATUS WITHIN ONE OR MORE PROTECTED CLASS OR CLASSES, SUCH AS EDUCATION, TRAINING, OR EXPERIENCE.

a. THESE FACTORS CANNOT BE BASED UPON OR DERIVED FROM A DIFFERENTIAL IN COMPENSATION BASED ON STATUS WITHIN ONE OR MORE PROTECTED CLASS OR CLASSES; AND

b. SHALL BE JOB-RELATED WITH RESPECT TO THE POSITION IN QUESTION AND SHALL BE CONSISTENT WITH BUSINESS NECESSITY.

c. THESE EXCEPTIONS DO NOT APPLY WHEN THE EMPLOYEE DEMONSTRATES:

i. THAT AN EMPLOYER USES A PARTICULAR EMPLOYMENT PRACTICE THAT CAUSES A DISPARATE IMPACT ON THE BASIS OF STATUS WITHIN ONE OR MORE PROTECTED CLASS OR CLASSES;

ii. THAT AN ALTERNATIVE EMPLOYMENT PRACTICE EXISTS THAT WOULD SERVE THE SAME BUSINESS PURPOSE AND NOT PRODUCE SUCH DIFFERENTIAL; AND

iii. THAT THE EMPLOYER HAS REFUSED TO ADOPT SUCH ALTERNATIVE PRACTICE.

www.bhlawpllc.com

34

BOUSQUET HOLSTEIN PLLC

d. FURTHERMORE, THE EMPLOYER CANNOT RELY ON COMPARISONS AMONG THOSE WHO SHARE THE SAME TITLE TO ENSURE PAY EQUITY.

   i. MUST CONSIDER WAGE RATES AMONG EMPLOYEES WHO HOLD DIFFERENT, BUT "SUBSTANTIALLY SIMILAR," ROLES.

   ii. GROUPINGS OR CLASSES OF JOBS - NOT INDIVIDUAL POSITIONS.

e. UNDER THE NEW LAW EMPLOYERS CANNOT COMPARE BETWEEN MEMBERS OF THE OPPOSITE SEX.

   1. MUST NOW CONSIDER ALL OTHER PROTECTED CATEGORIES

f. EMPLOYERS CAN STILL PAY EMPLOYEES DIFFERENTLY BASED ON GEOGRAPHIC LOCATION.

   i. EMPLOYERS DON'T HAVE TO PAY EMPLOYEES WORKING IN ITHACA THE SAME AS THOSE IN NYC.

   ii. HOWEVER, SMALL GEOGRAPHIC CLASSES ARE PROHIBITED.

   1. NOTHING SMALLER THAN COUNTIES.

   2. EMPLOYEES SHALL BE DEEMED TO WORK IN THE SAME ESTABLISHMENT IF THE EMPLOYEES WORK FOR THE SAME EMPLOYER AT WORKPLACES LOCATED IN THE SAME GEOGRAPHICAL REGION, NO LARGER THAN A COUNTY, TAKING INTO ACCOUNT POPULATION DISTRIBUTION, ECONOMIC ACTIVITY, AND/OR THE PRESENCE OF MUNICIPALITIES.

35

BOUSQUET HOLSTEIN PLLC

   iii. EMPLOYERS CANNOT PROHIBIT EMPLOYEES FROM INQUIRING ABOUT, DISCUSSING, OR DISCLOSING THE WAGES OF OTHER EMPLOYEES.

   iv. HOWEVER, AN EMPLOYER MAY ADOPT A WRITTEN POLICY ESTABLISHING REASONABLE WORKPLACE AND WORKDAY LIMITATIONS ON THE TIME, PLACE AND MANNER FOR DISCUSSIONS ABOUT WAGES.

      1. COMMISSIONER WILL PROVIDE GUIDANCE ON THESE LIMITATIONS.

      2. THESE LIMITATIONS MAY PROHIBIT EMPLOYEES FROM DISCUSSING OR DISCLOSING THE WAGES OF ANOTHER EMPLOYEE WITHOUT SUCH EMPLOYEE'S PRIOR PERMISSION.

   v. NOTHING IN THIS SUBDIVISION SHALL REQUIRE AN EMPLOYEE TO DISCLOSE HIS OR HER WAGES.

g. THE DOL'S GUIDANCE MAY BE FOUND: https://labor.ny.gov/formsdocs/factsheets/pdfs/p828.pdf

www.bhlawpllc.com

36

www.bhlawpllc.com