**Archbright™**

**Insights Newsletter**

**November 2017**

**Flurry of Sexual Harassment Scandals Puts Employers on Notice**

Recent press coverage of employee complaints against celebrity and superstar employees is unprecedented: Weinstein, O’Reilly, Spacey, NPR, … By the time you read this, the headlines surely will have identified another allegation against a high-profile individual. A recent study by the Equal Employment Opportunity Commission (EEOC) named the phenomenon “superstar harassers”. Our members typically do not employ “superstars” nor celebrities. So, is this avalanche of harassment allegations just a disturbing news item? Absolutely not! All employers would do well to heed the headlines and take proactive steps to avoid becoming the local news story.

The EEOC also found in its study that approximately 3 out of 4 individuals who experienced harassment never even talked to a supervisor, manager, or union representative about the conduct. Preventing harassment in the workplace means you need to take a proactive stance – prevent it from happening in the first place and if it does happen, act immediately. Your employees are reading the headlines and social media, becoming more informed, and even angry.

The true cost of harassment is more than legal costs. It also causes low morale, decreased productivity, increased turnover and reputational harm. You do not want your company name plastered all over social media or local headlines because of allegations of harassment. And if it does happen, you want to be able to show, you have done all you can and should do, including policies, training, and proper investigations and action on all complaints.

That’s where Archbright can help!

**CEO Corner, by Shannon Kavanaugh**

**Prevention is the best tool to eliminate harassment in the workplace.**

Because of the growing news coverage of harassment in the workplace, it’s as important as ever to address this issue in your own house!

Does your company have an anti-harassment policy? Do you have a formal, interactive, in-person training for your employees? The EEOC has stated it plainly, “Prevention is the best tool to eliminate harassment in the workplace.” In fact, the EEOC specifically advises:

*“Agencies should train employees about the anti- harassment policy and complaint procedures. Since this training should also educate employees about the types of conduct that constitute harassment under the anti- discrimination laws, the training may also address the issue of over-reporting harassment claims. The training may also allow agencies to show that an employee’s failure to utilize the harassment process was not the result of the agency failing to tell the employee about the process.”*

We can help! Our anti-harassment training is designed to meet your company’s needs and is tailored to your environment, led by qualified, engaging facilitators and always current.

Archbright’s Silver and Gold members can view the Keynote on Harassment in the Workplace in the HR Toolkit (www.archbright.com/documentlibrary) on the Members Only website. Also, talk to your Archbright Account Executive about our well- received onsite training.

**It is time to take a huge step towards prevention!**

**The Benefits of Membership**

While our 3 different levels of membership allow you to more closely align our core services with your organization’s needs, we’d like to highlight a few benefits that all members have access to:

* **The HR Hotline.** Have you called the HR hotline recently? Our experienced, senior HR professionals are on-call each business day. They are standing by, ready to answer your HR questions about FMLA, ADA, wage and hour law, discipline, discrimination, harassment, and more. Members can call or email the HR Hotline and receive advice, tools, resources, and a plan of action to address the most complex issues in the workplace.
* **HR Answers Now.** This national database is available to all Archbright members and includes full texts of employment law and regulations for all 50 states plus Washington D.C. The “What the Employer Must Do” section for every state makes it one of the most complete and detailed resources for state employment laws available today.

If you do not have an account for AnswersNow set up, please contact Anna Muller, Member Services Representative, at amuller@archbright.com to request a login. Once you are set up in the system, you’ll simply login to the Archbright website, select Archbright Partners from the Member Home menu, and click on AnswersNow to access the tool.
* **Meeting Room Rentals.** Now that we have settled in to our brand-new activity based workspace, we are excited to host members in our co-working space! We have five rooms available for members to use, Monday through Friday from 8am to 5pm. Reservations are required. To book a room, please contact member services at 206.329.1120 or info@archbright.com.

2**018 Membership**

As we approach the end of the year, now is the time to make any changes to your membership status for 2018. Your current membership tier will auto-renew on January 1st and per your membership agreement, we require 30 days’ notice to make any changes before it auto-renews.

Therefore, please inform us in writing by December 4th if you want to make any changes to your membership for 2018. For information about our membership tiers, please visit the Membership page at Archbright.com.

**We’ve Moved!**

Please update your records to reflect our new address:

5601 6th Avenue South, Suite 400

Seattle, WA 98108

This is both our physical and mailing address, so please make sure to send any invoice payments to our new address.

Thank you!

**Classes for High Performing Individual Contributors**

Does your organization have highly talented experts in non-supervisory roles? Supervisory Skills, Hiring Winners, and other management classes are not quite a fit since these focus on building and managing a team. What is available for the high-performing individual contributor?

We have several classes between now and the end of the year that are focused on improving skills used at work every day without being directly related to supervisory duties. They are great choices for high-performing employees, whether or not they manage a team.

November 15-16 Crucial Accountability: Learn to hold yourself, your peers, and your management team accountable by diagnosing the source of the broken promises and building a solution for future success.

November 16 Time Management: Time Management is a great class for anyone who must prioritize and streamline daily tasks and long-term projects.

November 30 Setting Goals: In Setting Goals, you gain practice in writing a vision statement and outlining the steps to follow to make your goal a reality.

December 12 The Work of Leaders: This is a class designed for formal and informal leaders which helps participants increase vision, alignment, and execution at any level.

December 13 Building Interpersonal Awareness: Learn to bridge gaps between different behavioral styles to reduce stress and get the work done!

**Paid Sick and Safe Leave for Washington Employees Goes into Effect in January – Update Your Policies Now!**

Effective January 1, 2018, the State of Washington will require that all Washington employers provide paid sick and safe leave to their employees. The requirement originated with Initiative 1433, which Washington voters approved last November. The Washington Department of Labor & Industries has spent the past year drafting, revising, and recently finalizing the administrative rules that further explain the new legal requirement.

Based on the now final administrative rules, the basic requirements of the Washington sick and safe leave are as follows:

**Application:** The law applies to any employer who employs at least one person in Washington. These employers must provide paid sick and safe leave to all employees who perform work in Washington and who are non-exempt from Washington’s overtime rules. This includes part-time and seasonal workers.

**Leave Accrual:** Employees accrue one hour of paid leave for every 40 hours worked, beginning on their first day of employment.

**Leave Usage:** Employees are eligible to use their accrued paid leave after 90 days of employment. Accrued paid leave may be used, in increments equal to the employer’s smallest payroll increment, for the following covered reasons:

1. an employee’s own health condition;
2. to care for a family member (child, parent, spouse or registered domestic partner, grandparent, grandchild, or sibling) with a health condition;
3. for absences currently covered by the Domestic Violence Leave Act; or
4. when an employee’s workplace or child’s school has been closed by a public health official.

**Maximum Carryover:** Employees must be allowed to carry over at least 40 hours of accrued and unused paid leave into the next year.

**Notice:** Employers may require employees to provide advanced notice of a covered absence. If the need for leave is foreseeable, an employer can require notice up to 10 calendar days in advance. If the need for leave is unforeseeable, an employee must provide notice as soon as practicable.

**Verification:** Employers may require verification that the leave is for a covered purpose only for absences exceeding three consecutive scheduled working days.

**Payment:** Employees must be paid their normal hourly rate for all absences covered by paid sick and safe leave. This may include shift differentials or other additional compensation the employee is eligible for.

**PTO Policies:** A universal PTO policy may comply with the new law, provided the PTO policy provides at least as generous accrual and carryover provisions and allows usage of PTO for all of the law’s covered reasons.

Archbright’s Washington State Paid Leave KeyNote and Sick Leave Policy templates are updated to comply with the final regulations and are available to Gold and Silver members on our website. Please contact an Archbright HR Advisor with any additional questions.

Source: Archbright Legal Team

**2018 Minimum Wages – Effective January 1**

|  |  |
| --- | --- |
| Washington | $11.50 per hour |
| Seattle |  |
| Large Employers without medical benefits | $15.45 per hour |
| Large Employers with medical benefits | $15.00 per hour |
| Small Employers (500 or less US employees) | $14.00 per hour |
| Small Employers: min. wage vs. min. compensation | $11.50 per hour\* |
| \* lesser wage may be paid if employee receives wages, tips and medical benefits equal to $14 per hour |
| Tacoma | $12.00 per hour |
| SeaTac | $15.64 per hour |

Oregon 2018 minimum wage increases are scheduled for July 1. Idaho has no scheduled minimum wage increase.

Source: Archbright

**HR FAQ**

**Question:** We made a verbal offer to our top candidate for our Buyer position, but he wants the offer in writing. This is not something we typically do. Are there any legal requirements on sending an employment offer letter?

**Answer:** As long as the employee does not work in Seattle, there are no legal requirements. However, there are several compelling reasons to consider doing so. First, a written offer of employment is a sign of professionalism and most candidates are delighted to receive one. Second, the letter can foster positive feelings towards the Company by extending an enthusiastic and warm welcome. Third, it can prevent misunderstandings by documenting the terms and conditions of the offer to ensure both parties agree to those terms. For example, it may condition the offer upon the completion of a satisfactory background check and/or the signing of a confidentiality agreement.

With exempt personnel, be sure to state the proposed salary in either weekly, bi- weekly, monthly or semi-monthly terms (rather than quoting an annual salary). This avoids language which could give the appearance of a yearlong contract.

**Seattle Employers:** Seattle’s Wage Theft ordinance requires employers to provide a written notice of employment information at the time of hire to all employees working within the Seattle city limits. The notice must include the employee’s rate of pay, eligibility to earn overtime, the established payday, the work schedule, the pay basis (hour, shift, day, week, or commission) and the employer’s tip policy, if applicable.

Sample offer letters and the City of Seattle Notice form are available to Gold and Silver Members on the Archbright “Members Only” website.

**Is Age Just A Number In The Workplace?**

According to the U.S. Bureau of Labor Statistics, today one in every five American workers is over 65. Individuals are living longer

and working past the “traditional” retirement age of 62. By the year 2020, one in four American workers will be over 55. The demographic shift may manifest itself in your workplace, while at the same time more broadly affecting the labor pool and economy as a whole. By 2020, approximately 76 million “baby boomers” are expected to retire. The demographic shift means that employers will confront new challenges with respect to:

* Recruitment and retention
* Health and safety
* Technology
* Disability accommodation
* Labor shortages in certain industries, or with respect to certain skill sets
* Rising costs
* Training
* Medical leave administration
* Employee relations
* Performance management

Employers cannot ignore these wide-ranging implications of an aging workforce. Now is the time to assess the impact (or potential impact) of an aging workforce on your organization and industry. You may then develop goals and a strategy to minimize risk and optimize workplace performance in a new context.

Once such goal should be to manage employee relations with an understanding of, and sensitivity to generational differences among workers. This may require a more flexible approach to performance management and utilizing different styles and modes of communication. Likewise, employers should provide diversity training in order to provide employees with the tools to engage with each other respectfully and productively. Recognize that employees’ work ethic, work style, values, leadership skills, communication, and learning styles may differ across generations.

An aging workforce means that employees may be more likely to be directly supervised by someone much younger than them, which may cause conflict and communication challenges.

Ever-evolving technological tools may present barriers to the advancement of “older employees” versus co-workers who have been operating iPads since grade school. Providing additional training tailored to employees’ individual needs may eliminate such barriers at very little cost.

Employers should recognize and capitalize on the strengths and unique contributions of their employees while proactively seeking ways to ensure mutual respect, teamwork, and collaboration among a diverse workforce. To this end, however, you must avoid bias and reject stereotypes and generalizations. Members of certain “generations” may exhibit commonalities that are helpful in developing your strategy for addressing an aging workforce.

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Once such goal should be to manage employee relations with an understanding of, and sensitivity to generational differences among workers. This may require a more flexible approach to performance management and utilizing different styles and modes of communication. Likewise, employers should provide diversity training in order to provide employees with the tools to engage with each other respectfully and productively. Recognize employees differently based on age. The Age Discrimination in Employment Act (ADEA) and state law protect employees age 40 and over from discrimination. Under no circumstance should employers consider age as a factor in any employment decision, or permit employees or managers to treat an employee 40 and over differently than any other employee based on age. While it may be helpful to collect information regarding generational differences in order to foster better employee relations and increase productivity, acting on stereotypes or encouraging such behavior poses a legal risk and should be strictly prohibited. In other words, ultimately, age is and should be, just a number in your workplace.

Source: Kara Craig, JD, Attorney at Archbright

**U.S. Department of Justice Ends Policy Protecting Transgender From Employment Discrimination**

Last month, Attorney General Jeff Sessions officially reversed the Department of Justice’s current position that Title VII’s protections extend to claims of discrimination based on an individual’s gender identity, including transgender status. In an October 4, 2017, memorandum to U.S. Attorneys, Sessions wrote, “Title VII’s prohibition on sex discrimination encompasses discrimination between men and women but does not encompass discrimination based on gender identity per se, including transgender status.” The Justice Department will take this position going forward, except in cases where lower-court controlling precedent dictates otherwise, in which case the issue is to be preserved for potential review.

The move by Sessions really did not come as a surprise. Despite initial assurances that “President Donald J. Trump is determined to protect the rights of all Americans, including the LGBTQ community,” as the White House said in January 2017, just a month later in February, the Departments of Justice and Education issued joint guidance withdrawing the Obama-era guidance interpreting Title IX protections to extend to transgender students. That new guidance suggested instead that the Obama guidance fell short of showing how its interpretation was consistent with the language of Title IX, and with the rights of states and local school districts in establishing educational policy.

This ruling comes despite the EEOC’s argument that it is the “primary agency” charged with interpreting Title VII. The Commission’s position is that because claims of sexual orientation discrimination “necessarily involve impermissible consideration of a plaintiff’s sex, gender-based associational discrimination, and sex stereotyping,” they fall “squarely within Title VII’s prohibition against discrimination on the basis of sex.”

As a reminder, this covers federal law only. States, such as Washington and Oregon, that have passed legislation extending protections against discrimination to individuals based on gender identity are not affected by this reversal. Employees working in Washington and Oregon continue to enjoy a defense against discrimination based on their transgender status.

**Source:** CCH/Archbright

**The Weakness Trap** by Garold L. Markle

 is the best thing to do with a weakness? According to the Gallup Poll data, the most successful managers don’t normally try to fix an employee’s weakness. Instead, they work around it. Ignore it, if possible. While this sounds counter intuitive to some, it actually agrees with what most of us have noticed in life. Consider coaching.

What would a football coach do with a short but fast player who has quick hands? Try to fatten him up and make him stronger? Of course not. The coach would place him in

the defensive backfield where speed and agility are key. He would charge the small, fast guy with getting faster. Meanwhile, he’d take his biggest, strongest player and challenge him to become bigger and stronger.

In Catalytic Coaching we ask managers to select four “Areas for Improvement” that they want a direct report to focus on for the upcoming year. Since we compel them to do this immediately after discussing strengths, it is quite natural that people assume that this is where they “write him up” for his shortcomings. If they follow this instinctual path, however, they will greatly reduce the effectiveness of the coaching process. They’ll fall quickly into The Weakness Trap spending good energy on a bad idea.

For a fully functioning employee, Areas for Improvement are more productively focused on Strengths that a coach would like to see more of. No matter what I say to managers and supervisors in coaching training sessions, people seem to miss this point. When I work with them one-on-one (during “In-Flight Training”) it is often their biggest revelation. “I didn’t know we could ask her to do more of what she’s good at,” they’ll say, despite the fact that I made this point several times in class. Once they

have this experience, however, the light comes on and they advance to a different level of coaching effectiveness.

So how do we avoid The Weakness Trap? Consider taking the following actions:

* Design Around Weaknesses. Whenever possible shift roles and responsibilities to give those who work for you a chance to focus on what they’re good at and what they enjoy. Fit the job to the people and the people to the job. It is more important to create a team that wins through working together than to mandate that all jobs with similar titles are carbon copies.
* Shorten Improvement Cycles. If you’ve got a direct report that has a weakness that you can’t build out of her position (for example, a manager who can’t delegate), give her a limited amount of focused attention to make the improvement. Remember that “Catalytic” means speeding the pace of significant change. In business, time is money. Repurposing or replacing usually beat rewiring.
* Focus on Strengths. Do your homework to determine what people are good at. Things they have a competitive advantage at. Identify activities that give them energy. Knowing someone’s weaknesses is valuable information for selection and placement decisions. If you’re going to coach them where they’re at, however, the key is to take what they’re good at and make it better.

Garold Markle is the founder of Catalytic Coaching and SVP of Energage, Inc. Learn directly from Gary at our upcoming Catalytic Coaching Course next month and discover how coaching increases employee engagement.

**3-Day Training Course**

We are excited to announce that we have partnered with Energage, creators of Catalytic Coaching, to offer this one-of-a-kind, 3-day training event. If you are planning on bringing Catalytic Coaching to your organization, you won’t want to miss it. Not only will you become certified as a Coach2, you’ll leave the course with an in-depth knowledge of the program and how to set your organization up for success.

This training is pre-approved for 20.5 HRCI recertification credits!

When: December 4 - 7, 2017 | Monday, 6pm through Thursday, 5pm

Where: Suncadia Resort | Cle Elum, WA

Cost: $3,950 regular price | $3,450 Archbright member price, just use the promo code ARCHBRIGHT at checkout.

Registration is now open at energage.com/events.

**L&I Calls for Decrease in Workers’ Comp Rates in 2018**

The average amount employers pay for workers’ compensation insurance in Washington will soon drop 2.5%, according to a recent proposal from the Washington State Department of Labor & Industries (L&I). If adopted, this would be the first decline in the hourly rate since 2007.

The proposed decrease would reduce the average rate that employers pay in workers’ comp premiums by an average of $34 a year per employee for workers’ compensation coverage, depending on industry and claims history.

L&I attributes the proposed decrease to several factors, including employers and workers focusing on workplace safety and L&I initiatives, such as the Stay at Work Program, that are helping workers that are hurt on the job recover sooner and return to work, reducing overall workers’ compensation costs.

Public hearings are planned for October and November, where employers can learn about and comment on the proposed rates. Final rates will be adopted by early December and will go into effect January 1, 2018. More information about this proposal can be found at www.lni.wa.gov/rates.

Archbright will keep you updated on the status of the proposed decrease.

For further information on how this rate change may affect you, please contact your Archbright Safety/Loss Control Consultant at 206.329.1120 or 509.381.1635 or email safety@archbright.com.

**Top 10 Most Costly U.S. Workplace Injuries**

The 2016 Liberty Mutual Workplace Index found that workplace accidents and injuries that caused employees to miss six or more days of work, costs U.S. employers nearly $62 billion. Of that $62 billion, almost 83% of the injuries can be attributed to these 10 leading causes:

1. Overexertion involving an outside source (24.4%/$15.08 billion) Ex: Lifting something overhead or heavy

2. Falls same level (16.4% of costs/$10.17 billion) Ex: Tripping, slipping or toppling

3. Falls to lower level (8.7% of costs/$5.40 billion) Ex: Ladders, stepstools, roofs

4. Struck by object or equipment (8.6% of costs/$5.31 billion) Ex: Dropped object or cut by equipment

5. Other exertions or bodily reactions (6.7% of costs/$4.15 billion) Ex: Bending, crawling, reaching injuries

6. Roadway incidents involving motorized billion) Ex: Could be driver, passenger or pedestrian

7. Slip or trip without fall (3.8% of costs/$2.35 billion) Ex: Slips but grabs handrail, causing sprain or strain

8. Caught in or compressed by equipment or objects (3.2% of costs/$1.97 billion) Ex: Body part getting caught in moving parts

9. Struck against object or equipment (3% of costs/$1.85 billion) Ex: Running into equipment or hitting head

10. Repetitive motions involving micro-tasks (2.9% of costs/$1.82 billion) Ex: Computer work, fine detail work the workplace that are contributing to nonfatal workplace injuries. Improving

safety protects the workers and the bottom line as workplace injuries affect the employees’ physical, emotional and financial well-being. Besides direct costs, workplace injuries also produce indirect costs such as hiring temp workers, lost productivity, quality disruptions and damage to the company’s engagement and potentially external reputation.

**Monthly Safety Webinar November 2017**

Show Me the Money Workers’ Compensation Costs & Refunds

Thursday, November 16, 2017

2:15 p.m.

Workers’ compensation costs can be a huge expense for organizations if not managed properly. In this webinar, we will discuss how Labor and Industries calculates an employer’s upfront workers’ compensation costs, as well as how a company can earn a refund on those upfront costs through participation in the Retrospective Rating Program.

Topics include:

* Upfront workers’ compensation costs and how they are calculated
* Ways to minimize your upfront costs
* Stay at Work program
* What is the Retrospective Rating Program
* How your Retro return is calculated
* Maximizing your Retro return

This monthly webinar is complimentary for all members of our Workers’ Compensation and Retrospective Rating Programs. Attendees will receive an email approximately one week before the webinar with participation and login information. For questions or more information on our webinar training, please contact safety@ archbright.com.

The webinar is also available to members not enrolled in our Workers’ Compensation or Retrospective Rating Programs for a registration fee. Please visit Archbright.com or contact info@archbright.com for more information.

Safety is a State of Mind. Accidents are an Absence of Mind.

**Did You Know?**

If your company is part of Archbright’s Group Retro/Workers’ Comp program, you can receive your Proposed 2018 Experience Factor Calculation. Rates will not be finalized and mailed to employers until December 2017, but members can get preliminary information now! To get your proposed rate or to get information about joining Archbright’s Group Retro/ Workers’ Compensation program, please call 206.329.1120 or 509.381.1635 or email safety@archbright.com.

**Please Notify Us of Staff Changes.** Please take a moment to contact us to correct any staffing changes for your organization, including email addresses. Email us at info@archbright.com.

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We welcome your comments and suggestions.

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