

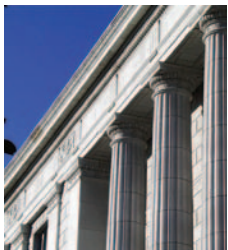
ALERT

CALIFORNIA CHAMBER OF COMMERCE

VOLUME 32, NUMBER 6 • FEBRUARY 17, 2006



Chamber Brief Supports Workers' Comp Reforms



The California Chamber of Commerce is going to court to preserve the cost-saving workers' compensation reforms passed in 2004.

In a friend-of-the-court brief filed with the 1st District Court of Appeal in support of the decision in *Nabors v. Workers' Compensation Appeals Board* (WCAB), the Chamber urges the court to implement the legislative reforms concerning how to fairly apportion an employer's legal responsibility for a permanent disability.

SB 899 Reforms

Chamber-supported SB 899 (Poochigian; R-Fresno) of 2004 made fundamental changes in the way the workers' compensation system determines the level of injury and the amount of disability assigned to an injury and created a

new medical network to provide quality, cost-effective care to workers.

This package ensured that medical treatment follows nationally recognized guidelines and sets clear parameters for what is acceptable treatment for injured workers in the system, while also reducing excessive litigation.

Included in the reform package were statutory changes designed to bring rationality to apportionment determinations — that is, the process of segregating out disability attributable to pre-existing conditions — so that employers would be responsible for only the portion of an injured worker's disability resulting from the existing job-related injury.

Calculating Liability

In keeping with the reforms, the WCAB in *Nabors* held that employer liability is to be apportioned according to the percentages to which the employee's two injuries combined to result in the disability.

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Chamber Cites Flaws in Study of Workers' Comp Permanent Disability Ratings

A study of the permanent disability rating schedule for workers' compensation claims is using incomplete data and should not have been adopted, the California Chamber of Commerce has told a state commission.

More real data on how the new workers' compensation permanent disability rating schedule is affecting costs and benefits needs to be gathered, the Chamber said in testimony to the Commission on

See Chamber: Page 4

Initiatives Rolling Back Workers' Comp Reforms Cleared for Circulation

Three versions of an initiative threatening to roll back the 2004 workers' compensation reform reforms have been cleared to be circulated for signatures.

California Chamber President Allan Zaremborg is co-chairing a committee, Californians Against the Job Killer Initiative, that will oppose these detrimental

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California Business Legislative Summit

April 25, Sacramento

Special thanks to our Major Sponsor
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Registration information at www.calchamber.com

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Labor Law Corner

Minors Need Permits to Work Year-Round, in Most Circumstances



Barbara Wilber
Labor Law Consultant

I want to hire a high school student during a two-week school holiday. Since school is out of session, I am assuming that she does not need a work permit. Is this correct?

The California Labor Code, the Fair Labor Standards Act (FLSA) and the

Education Code all regulate employment of minors in California. Several employer misconceptions about California work permit requirements result in the issuance of civil citations and penalty assessments.

With certain limited exceptions, California requires minors under 18 years of age who have not graduated from high school or obtained a "Certificate of Proficiency" to have a valid work permit.

Permits Required Year-Round

A common misconception is that work permits are not necessary during holidays and summer vacation.

This perception is incorrect.

Work permits are required year-round, even when school is not in session.

Employers often hire high school "dropouts" or married minors in the belief that the work permit requirement does not apply to these minors.

Again, this belief is incorrect.

So-called "dropouts" under 18 years old are required to attend school and must have a permit in order to work. Emancipated minors are persons under 18 who have married, are in the armed services or have become emancipated by the court, and all must have a valid permit to work.

Working for Parents

Parents also hire their minor children to work in the family business without realizing that the work permit requirements apply.

When parents/guardians employ their minor children, they must obtain work

permits, as well as meet all the child labor requirements imposed upon other employers.

The only parent/guardian employers exempt from the work permit requirements are those employing their minor children in agriculture, horticulture, viticulture or domestic labor on or in connection with premises the parent/guardian owns, operates or controls.

Visiting Minors Need Permits

Another less common problem arises when a visiting minor child wants to go to work. Whether the child is visiting from another area of the state, another state or another country, a work permit must be obtained from the local school district in which the minor resides while visiting.

No Permit Sometimes

Work permits are *not* required in some circumstances:

- Minors who irregularly work at odd jobs, such as yard work and babysitting in private homes where the minor is not otherwise regularly employed.

- Minors who are at least 14 years old and employed to deliver newspapers.

- Minors who are self-employed.

- Minors directly employed by state and local agencies. These minors, however, are covered by the federal FLSA.

Required Forms

- **The Statement of Intent to Em-**

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Chamber Calendar

Water Committee:

February 23, Anaheim

Transportation Committee:

February 23, Anaheim

Fundraising Committee:

February 23, Anaheim

Board of Directors:

February 23-24, Anaheim

International Trade Breakfast:

February 24, Anaheim

Tourism Committee:

February 24, Anaheim

Seminars/Trade Shows

For more information on the seminars listed below, visit www.calchamber.com/events.

Labor Law

Labor Law Web Seminar. California Chamber of Commerce. February 21. (800) 331-8877.

International Trade

U.S. Trade Policy: Regaining Momentum in 2006. Graduate School of International Relations and Pacific Studies, University of California, San Diego. March 23, La Jolla. (858) 822-3933.



Small Business Advocate of the Year Award

Advocate Sees Economic Development Through Eyes of a Scientist

Terry Ramus has a doctorate in analytical chemistry, a successful high-tech company and an unshakable determination to go the distance for local economic development.

Ramus, a recipient of the California Chamber of Commerce Small Business Advocate of the Year Award, owns and runs Diablo Analytical, Inc., which connects, integrates and tests scientific instrumentation systems for *Fortune* 5000 companies, high tech start-ups and government agencies.

He started Diablo Analytical in the late 1990s when the Silicon Valley biotech industry was a dominant force, and has experienced the ebbs and flows of changing times.

"Business is up since 9-11, but California is a tough state to do business in, and I have to travel a lot," observes Ramus.

For the tech industry, the costs of doing business often are related to access to housing and commute times, according to Ramus. Because of these infrastructure factors, "recruiting outside of the Bay Area is difficult," he says.

Primary Concerns

For these reasons, Ramus has put much effort into advancing policies that will bring high-quality infrastructure projects to his area. He currently is concerned with three major local issues: expansion of Highway 4, extension of Bay Area Rapid Transit (BART) services to East Contra Costa County and establishing local business parks.

These issues deal directly with Antioch's competitiveness in attracting businesses and maintaining a high quality of life for residents. The city, according to Ramus, is at the end of a regional "cul-de-sac," and accessibility to larger metropolitan areas is a huge issue for commuters and for attracting new businesses.

Ramus has campaigned successfully for several local ballot measures that move Antioch toward this accessibility goal, including Measure J, which extended a local sales tax to fund infrastructure projects.

BART expansion has proven more difficult to advance, primarily because, in Ramus' opinion, certain housing density mandates accompany expansion

funds. "Antioch is suburban, and these regulations don't work," he says. "These philosophies make outlying areas more difficult to do business in, leading to more commuting and more traffic." The challenge, then, is to make BART useful for the area's economy and residents.

The establishment of business parks, however, is starting to be successful. Three business park zones have been set up in the Antioch area, and a new multistory, Class A office complex is being built. Most new business space has included flex space to accommodate businesses such as Ramus' that bring in higher pay and would complement the existing economic base.

The goals of these strategies are economic and job growth, the overall reduction of people who need to commute and the creation of places where businesses can start up. In the next 10 years, Ramus expects to see the full fruition of the business community's past labors. "It's gratifying," he says, "to see the results of all the work that's been done."

Direct Line to Advocacy

Ramus became an advocate about 10 years ago when state legislation threatened the professional engineering field, of which his business is a part. A move by certain interests to increase state licensing requirements would have drastically altered the number of people able to perform certain engineering tasks, leaving many private-sector individuals and firms — such as Ramus' — out in the cold.

The Silicon Valley-based Professional and Technical Consultants Association and other partners opposed this licensure rewrite, which wound up in the California Legislature as SB 828 in 1998. Through close work with legislative allies, the group put an end to the problematic pieces of the licensure bill. Ramus then turned his attention to matters pressing in on his local business community.

He got involved with the Antioch Chamber of Commerce, where he helps review policies, recommend action, and campaign for high quality pro-business and pro-development positions. He has taken an active role in a number of local, regional and state ballot measures and bills, always working to give a voice to



Terry Ramus, a winner of the California Chamber Small Business Advocate of the Year Award, participates in an Issues Forum for the Antioch Chamber of Commerce during the 2005 election cycle.

business needs and interests.

Ramus also was instrumental in creating the Antioch Chamber's East PAC and in making sure the PAC was a force in local elections. One of his aims is to assure local political candidates know where the business community stands on a variety of issues and to encourage them to take a stand on the issues.

Linsey Dicks, chairman of the board of directors for the Antioch Chamber, has high praise for Ramus' commitment to business advocacy.

"Terry does a remarkable job of staying informed on complex and controversial issues facing businesses and our community," says Dicks. "He is respected for his level-headed yet passionate approach in discussing his point of view. He represented the Antioch Chamber of Commerce in many political battles, and our opinions carried added weight with his voice."

Not a Solo Act

Devi Lanphere, president/chief executive officer of the Antioch Chamber, gives Ramus a great deal of credit for recent

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Chamber Cites Flaws in Permanent Disability Ratings Study

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Health and Safety and Workers' Compensation.

The Chamber urged the commission to hold off on approving the study and forwarding it to the Legislature as evidence of permanent disability rating experience under the new rating schedule, noting that the commission's report was rushed and lacked accurate data.

Complex System

"A complex system such as California's permanent disability rating and the workers' compensation system does not operate or create results at breakneck speed, and it is overly optimistic to think we should evaluate and revise it at that speed," Chamber legislative advocate Marti Fisher told the commission.

Although the Chamber and other employer representatives voiced concerns over the commission's draft report and the weakness of the data on which it was based, the commission voted to adopt the draft and merely allow another seven days to receive public comment, which will be attached to the final report.

In its testimony to the commission, the Chamber pointed out that the report's recommendation for changing the permanent disability rating system "is based on a statistically insignificant span of experience data."

18-Month Study Period

The Chamber, Legislature and business community all agreed in 2005 that an 18-month-long study under the new permanent disability rating should be conducted by the Division of Workers' Compensation, based on extensive, comprehensive data. The commission's study, however, compares a non-representative pre-reform year to only a brief period under the new system.

The pre-reform data covers a time when applicant attorneys reportedly were seeking to earn the highest possible permanent disability awards for their clients before the workers' compensation reforms and resulting rating schedule were implemented. Before the reforms, the workers' compensation system included incentives for employees to stay off work longer, rather than return to work.

Reforms

Chamber-supported reforms in **SB 899 (Poochigian; R-Fresno)** of 2004 made fundamental changes in the way the workers' compensation system determines the level of injury; the amount of disability assigned to an injury; and created a new medical network to provide quality, cost-effective care to workers. This package ensured that medical treatment follows nationally recognized

guidelines and sets clear parameters for what is acceptable treatment for injured workers in the system, while also reducing excessive litigation.

New system incentives encourage employers to bring the injured workers back and the new medical guidelines encourage medical practitioners to discontinue medical procedures that have no merit.

Division Study

The state Division of Workers' Compensation is collecting rating data on claims under the new permanent disability rating system, including elements absent from the commission report that would permit significant comparisons and analysis on which to base decisions.

The Chamber urged the commission to provide its data to the division to be considered in the division's final study that would include 18 months of actual statistics.

The commission was established by 1993 reform legislation to continually monitor the workers' compensation system and recommend changes if it sees fit. Its current chair is Angie Wei, a lobbyist for the California Labor Federation, AFL-CIO.

Absent the appropriate data, considerations and analysis, the Chamber cannot support any decision that would occur as a result of the commission's study.

Staff Contact: Marti Fisher

California Chamber Brief Supports Workers' Comp Reforms

From Page 1

The plaintiff is appealing the case on the grounds that the WCAB should have used a different calculation — one in which the employer's proportionate liability is calculated based upon the dollar value of the disabilities.

Chamber Position

The Chamber agrees with the WCAB

ruling in *Nabors* because it is in keeping with the reforms of SB 899 and is the correct formula to be applied under the new apportionment statutes.

Recently, in *E. & J. Gallo Winery v. Workers' Comp. Appeals Board*, the 5th District Court of Appeal issued a contrary ruling, holding that the employer's proportionate liability is calculated based upon the dollar value of the disabilities

as opposed to the percentage method applied in *Nabors*.

Ultimately, the California Supreme Court may be called upon to decide between the competing methods advocated by the WCAB in *Nabors* on the one hand, and the 5th District Court of Appeal in *Gallo* on the other.

Staff Contact: Erika Frank

Visit www.calchamber.com for the latest business legislative news plus products and services to help you do business in California.

Chamber Suggests Changes to Clarify Harassment Training Regulations

The California Chamber of Commerce has submitted a number of suggestions to the state Fair Employment and Housing Commission (FEHC) to clarify proposed regulations implementing the state's sexual harassment prevention training law.

The law, **AB 1825 (Reyes; D-Fresno)**, required organizations with 50 or more employees, including contract personnel, to put all supervisory employees through at least two hours of sexual harassment prevention training by January 1, unless they had received some training during 2003 or 2004.

Thereafter, companies will have to provide two hours of training every two years.

Failing to comply opens up employers to potential lawsuits. In all, an estimated 1.7 million California managers are required to receive training.

Chamber Comments

In addition to seeking technical amendments to clarify the definition of employees covered by the sexual harassment prevention training requirement, the Chamber also advocated clarifications in the regulation wording about the training. The Chamber's suggestions seek to ensure that the regulations will enable employers to provide training that meets the needs of

their companies and employees.

For example, the Chamber said some training features are better left to the discretion of instruction designers or the trainers, such as the timing of student-teacher interactions or the length of individual instruction modules.

Next Round of Comments

The FEHC has said that after reviewing comments, it will revise its proposed

regulations and vote to adopt them at its next meeting, scheduled for April 25 in Fresno. The regulations will be available for an additional 15-day public comment period after adoption.

More information about the FEHC meeting and the revised regulations will be posted when available at the commission's website, www.fehc.ca.gov.

Staff Contact: Julianne Broyles

Minors Need Permits to Work Year-Round

From Page 2

ploy Minor and Request for Work Permit. This form should be completed by the minor and signed by the employer and the parent/guardian of the minor. Once the form is completed, the student files it with the school district and the school district may issue a work permit.

● **Permit to Employ and Work.** The school issues the permit, and the student returns the Permit to Employ and Work to the employer. The employer must have this permit on file in the workplace for each minor.

Keep these records open at all times for inspection by school authorities and officers of the state Division of Labor Standards Enforcement.

More information on hiring a minor is available at www.hrcalifornia.com.

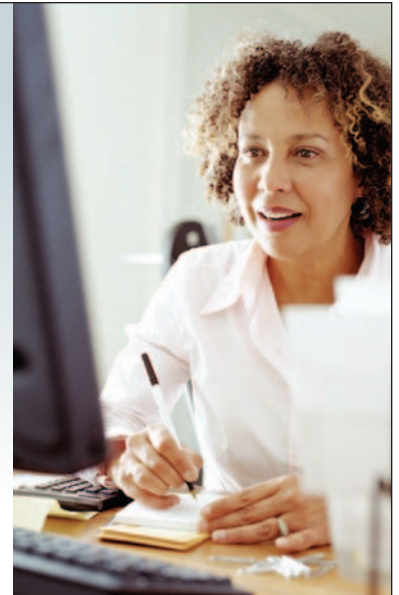
The Labor Law Helpline is a service to California Chamber preferred and executive members. For expert explanations of labor laws and Cal/OSHA regulations, not legal counsel for specific situations, call (800) 348-2262 or e-mail: helpline@calchamber.com.

Sexual Harassment Training Is Mandatory

Providing sexual harassment training to your supervisors is not just the law, it's good business. California law AB 1825 mandated two hours of sexual harassment training for supervisors before January 1, 2006, for companies with 50 or more employees. If you missed the deadline, training is still available.

Preventing Harassment in the Workplace online training helps you meet the mandatory requirements the easy way:

- Significant savings over in-person training
- Supervisors can train at their own pace
- Questions go directly to the course instructor, a legal expert
- Record-keeping tools track who has taken the course and automatically e-mail reminders to those who haven't completed it



Chamber Joins with National Research Firm on Employee Benefits Survey

California Chamber of Commerce members can find out whether their employee benefits are competitive by participating in a new research survey through the Chamber's website.

The Chamber is presenting the service in conjunction with Aberdeen Group, a national market research company.

"In today's competitive business environment, up-to-date information is critical for companies to recruit and retain quality employees," said Jan Bell, Chamber senior vice president of sales, marketing and product development. "Through our partnership with Aberdeen Group, Chamber members will gain access to dependable, California-specific research data."

The survey examines the extent of employee benefits in place in California companies today, including current prac-

tices, plans and investment intentions.

Research results are free to Chamber members who participate in providing data for the survey. Survey participation is fully voluntary. Individual responses will be kept strictly confidential.

Free access to the benefit survey report will be e-mailed directly to members who participate in the survey. Printed reports will be available for sale on the Chamber website for non-members.

Primary Data

Each quarter the Chamber and Aberdeen will initiate surveys and publish primary research reports on human resource topics. Geared toward business executives and managers, the research program provides easy-to-understand results that bring immediate value to the business.

Information is presented with charts,

graphs and insights to help a company benchmark itself. Report users can search by hundreds of key performance indicators or seek data according to industry, geography or company size.

Survey

To participate in the employee benefits survey, visit www.calchamber.com/aberdeen.

Aberdeen has been conducting fact-based, unbiased research for nearly 20 years on all aspects of business, as well as human capital management.

Chamber members also may join the AberdeenAccess community at a discounted rate of \$399 per member for a yearly subscription. Subscribers gain access to actionable insights and market intelligence.

Staff Contact: Jan Bell

Advocate Sees Economic Development Through Eyes of a Scientist

From Page 3

successes in Antioch, saying he has "positively changed the future of the Antioch Chamber's advocacy platform.

"His actions included founding our PAC, taking several successful positions, visiting our legislators, actively campaigning on two local measures and moderating two forums," Lanphere says.

Ramus accepts this praise modestly: "I don't do this all on my own — there is always a core group of people who lead the effort."

Eyes of a Scientist

Ramus' strategy for accomplishing the diverse goals of his advocacy work is rooted in his profession. "I look at the issues through the eyes of a scientist," he says. "I study the issue, study the options, analyze the competition and look for a strategic plan."

Ramus also is motivated by "a feeling

that it's everyone's duty to contribute a little of their time and effort to make our state, community and country viable for the future."

Ramus encourages business people to become involved in the questions that face their communities before a problem

arises, saying, "There are things that are happening in our economy that a lot of business people don't see. The business community needs to spend more time putting in the effort to neutralize some of these opposing philosophies."

Initiatives Roll Back Workers' Comp Reforms

From Page 1

initiatives. The committee aims to rally California's business community to preserve the 2004 reforms, which have helped produce and preserve thousands of jobs in the state.

As *Alert* went to press, the proponents of the initiatives had not yet announced which version they would seek to qualify for the ballot.

The Chamber-supported 2004 reform legislation, **SB 899 (Poohigian; R-Fresno)**, made fundamental changes in the way the workers' compensation system determines the level of injury and the amount of disability assigned to an injury and created a new medical network to provide quality, cost-effective care to workers.

The initiatives proposed by opponents

of the reforms eliminate the use of medical provider networks; reinstate the ability of injured workers and/or their advocates to select a doctor who would be granted a presumption of correctness; and undermine the ability to utilize pharmaceutical benefit managers to help contain prescription drug costs.

Further, versions 1 and 2 of the initiatives include provisions to eliminate workers' compensation as the exclusive remedy for injured workers and grant injured workers the ability to select between the existing system and an action at law or tort. Version 3 proposes a benefits increase for injured workers that could be greatly inflated by any prospective minimum wage increase.

Staff Contact: Jeanne Cain

**Next Alert:
March 3**

China Trade Mission

Trip Spotlights Fastest-Growing Sector for United Airlines Asia Market

In the fall of 1985, United Airlines acquired the Pacific Division of Pan American World Airways for \$750 million. At the time, observers viewed the price as excessive, but that move has proven to be one of the most critical, cogent and rewarding decisions ever made by the airline.

Now, as California Chamber member United this month celebrates the 20th anniversary of its service to Asia, the airline, its customers and its employees are enhancing what is today a service that ranks it as the world's largest transpacific airline.

Expanded Service

It is this segment of the business which has seen United expand its Asia-Pacific service by nearly 15 percent since late 2004, with new routes and increased capacity, that led the company to play an important role in Governor Arnold Schwarzenegger's China trade and tourism mission last November, and also the mission to Tokyo in November 2004.

The strong recovery in international business from the severe impacts of the 9/11 terrorist attacks, the Iraqi war, the SARS outbreak, and other economic factors led United to shift additional resources to both the Asia-Pacific region and to Europe.

That decision has paid off. In 2005, United carried more than 5.4 million passengers to and from or within the Asia-Pacific region, on more than 400 weekly flights. That represents about 25 percent of United's total capacity, backed by some 2,300 employees who are based in Bangkok, Beijing, Ho Chi Minh City (Saigon), Hong Kong, Melbourne, Nagoya, Osaka, Seoul, Shanghai, Singapore, Sydney, Taipei and Tokyo.

The reach of United's network is further extended through its Star



Alliance relationships with All Nippon Airways (ANA), Asiana, Singapore, Thai Airways and Air New Zealand.

Fastest-Growing Sector

China represents the fastest-growing sector of the market. United connects China with its hub at San Francisco International Airport (SFO) via daily Boeing 747-400 service from Shanghai, Beijing, and Hong Kong — the only such service provided by a U.S. carrier. In addition, daily service is also provided from those three points to Chicago.

As evidence of the importance of the California marketplace to Asia-Pacific, United has over the past 18 months introduced new service from SFO to Nagoya, Sydney, Beijing, and marked the historic return of U.S. carrier service to Vietnam, again from SFO, in December 2004.

China Mission

On the China trip, United carried most of the 110-120 participants, who joined Governor Schwarzenegger and First Lady Maria Shriver for a very productive visit to Beijing, Shanghai and Hong Kong. As it did on the Tokyo trip, the company sponsored and worked very closely with the California Travel and Tourism Commission, led by Executive Director Caroline Beteta, in hosting a group of leading California tourism officials.

Those officials met with key travel executives and tour operators at events in the three cities aimed at stimulating travel to California from China, and enhancing

governmental and media relationships. Those events are already producing results as business to and from California continues to increase.

The collaboration between United and the commission marked a continuation of a relationship that dates back to the early 1980s, when the company began to work closely with the state of California in attracting international visitors to the Golden State.

Highlights of a series of promotional activities this past fall were an inflight video promoting skiing in California and featuring the Governor, along with a major article in the December issue of *HEMISPHERES*, United's inflight magazine.

As United moves forward in the wake of its exit from bankruptcy on February 1, the commitment to international growth and the state of California, where it employs some 16,000 workers, has never been stronger.

With approximately 50 percent of its revenues derived from the international marketplace, and California's critical position, the benefits for both are obvious.

This article is the fifth in a series highlighting the China activities of California Chamber of Commerce members that participated in the Governor's trade mission to China in November 2005.

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Includes mandatory changes for 2006

- All 16 California and federal notices every California business must post, on one 28"x53" poster, including the required USERRA update
- Paid Family Leave Pamphlets
- Unemployment Insurance and State Disability Insurance pamphlets
- Sexual Harassment Information Sheets
- Workers' Compensation Rights & Benefits Pamphlets



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