



FENWICK & WEST LLP

Weekly Employment Brief

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Supervisor Held Individually Liable for Negative Evaluation

A court found a supervisor liable for his exceedingly negative evaluation stemming from an employee's refusal to approve homosexuals, unmarried couples, and persons involved in extramarital affairs as foster parents. In *Phillips v. Collings*, a recent Eighth Circuit opinion, a social worker requested that he not be assigned alternative lifestyle cases because they conflicted with his religious beliefs. Based on this request, the employer had a duty to reasonably accommodate these beliefs. Instead, the employee's supervisor responded with a 53-page evaluation, unprecedented in length and malediction. The employee sued his supervisor, and the jury awarded the employee \$26,500. It is important that employers remind their supervisors and managers of the need for objectivity when evaluating employees.

Silicon Valley Clean Rooms Not Safe Rooms

Plaintiffs' attorneys are suing over a dozen chemical companies nationwide, including IBM, for clean room chemicals that allegedly caused cancer and birth defects. One of the suits, pending in the Silicon Valley, claims that clean room workers who assembled disk drives and microcircuitry were exposed to chemicals that caused several types of cancer and birth defects. If successful, the suits could lead to another "Asbestos II." High-tech employers should follow this case closely and ensure that their workers are provided sufficient protection when assembling hardware in clean rooms and elsewhere.

Silicon Valley Employees May Escape Alternative Minimum Tax on Stock Options

Many Silicon Valley employees are currently in million-dollar debt to the federal government. As designed, the alternative minimum tax currently requires people who exercise certain types of stock options to pay taxes based on the stock price on the day of exercise, even if the stock value eventually decreases to zero. Certain lawmakers are proposing a bill to prevent recurrence of this problem. Under the proposed bill, workers would owe taxes only on the difference between the stock's strike price and the price of the shares on April 15, 2001. If the workers exercised shares before this date, they would owe taxes only on the amount of actual capital gains on the stock on the day the shares were sold. This may lead to happier workers in the Silicon Valley, and another rush for employers that generously provide stock options.

Living Wage Ordinance Struck Down

On July 18, 2001, the Missouri Circuit Court struck down a living wage ordinance approved by St. Louis voters. The ordinance required city contractors and subcontractors as well as companies receiving financial assistance from the city, to pay their employees a minimum living wage. The Court found that this ordinance conflicted with a state minimum wage statute, because the ordinance was vague as to the companies which it applied and the times when it applied. This may signal an upcoming review of living wage ordinances throughout the country including San Francisco.

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