

**Top Secret!**  
**Owners Eyes Only!!**

Dealing  
with the  
*Entitlement  
Generation*

Presented by:

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*Fine, Boggs & Perkins LLP*

February 18, 2006



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What / Who is the  
“Entitlement Generation”?!

- What it is NOT:
  - NOT a particular age group
  - NOT a particular social group
  - NOT a particular economic group



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## What / Who is the “Entitlement Generation”?!

- What it IS:
  - Never learned how to work
  - Believes society owes them a job
  - Does not respect authority
  - “Work Less, make more”
  - Does not recognize their “place”
  - They know it all – just ask them!



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## What hiring them costs you?

### Cost of hiring the EG

- Use medical insurance three times more than other employees
- File five times more workers' compensation claims
- Are absent from work 3-8 times more than other employees



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**If they don't get  
what they want...**

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**"You'll hear from  
my lawyer!!"**



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**Your  
Employment  
APPLICATION  
Is your first line  
of defense**



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## Use an Effective Application

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- When was your application last updated?
- Does it just collect information, or does it provide **YOU** protection?



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## What makes an Effective Application?

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- Collecting Information:
  - Five years of past employers
  - Exact reason for leaving
  - Criminal history
  - Personal references



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## What makes an Effective Application?

- Protecting YOU, the employer:
  - Limit “active” period – 30 days
  - Statement regarding falsification
  - “At-Will” language
  - continued.....



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## What makes an Effective Application?

- Protecting YOU, the employer:
  - Reference authorization
  - Require a signature
  - **Binding Arbitration Agreement**



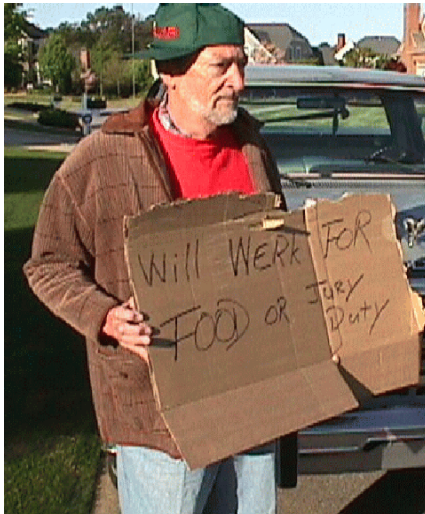
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When the judge sits as an arbitrator, statistics show that employer prevails 76% of the time



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When the jury has a case, statistics show that the employers prevail at best 50% of the time



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**Screen Carefully**  
***Do not hire the***  
***Walking Lawsuit!***



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## Rules for accepting Applications

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- The “15-Second Screening”
  - Is it **complete**?
    - No blanks
    - All questions answered
  - Is it **signed**?



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## Rules for accepting Applications

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**DO NOT ACCEPT**

*INCOMPLETE*

OR

*UNSIGNED*

**APPLICATIONS!!!**



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## Rules for accepting Applications

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**DO NOT ACCEPT**

*A RESUME*

IN LIEU OF

A COMPLETE

**APPLICATION!**



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## READ the Application

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- The “20-Minute Screening”
  - Do they have the qualifications for the job?
  - Look for “trouble signs” on the application...



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## READ the Application

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- The “**trouble signs**”:
  - scratch outs
  - unexplained gaps in employment
  - frequent changes in employment
  - continued...



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## READ the Application

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- The “**trouble signs**”:
  - incomplete information
  - “victim-like” reasons for leaving
  - criminal history left blank



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*Interview*  
**AGGRESSIVELY!**



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## Interview “Dos” and “Don’ts”:

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- **DO** interview with a Purpose!
- **DO NOT** ask about “protected” classifications
- **DO** ask who, what, when, and where questions
- **DO NOT** write on the Application
- **DO** use 80/20 rule
- **DO NOT** hire “on the spot”
- **DO** look for signs of drug or alcohol abuse



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**Utilize  
Reference and  
Background  
Checks**



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## Types of Background Checks:

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- Drug testing
- Credit checks
- Criminal background checks
- DMV checks

Wait for the results before putting  
the employee to work!!!



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## Reference Checks:

### Be Persistent With Former Employers

#### ➤ *Call Past Employers*

#### ➤ *Short Circuit the “No Comment” Program*

- Who do you know at the previous employer?
- Call the manager directly.
- Call the receptionist.

#### ➤ *Call Personal References*



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## But all that takes a lot of time...!

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- Do you have the time to replace a “bad hire”?
- How much time do you spend dealing with “five percenters”?
- “Bad hires” are MUCH more likely to sue you – do you have the time (and \$\$\$) to deal with a lawsuit?



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***Read and know  
what is in the  
Employee  
Handbook!!!!***



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## WHAT?!?!

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# You Don't Have an Employee Handbook?!



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## Handbook Policies

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- To whom must Harassment be reported?
- How is “under the influence” defined?
- How much are employees paid for jury duty?



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## Top Ten Problems Found in Employee Handbooks:

1. Inadequate "At-Will" language
2. Progressive discipline policies
3. Insufficient list of work rules lacking a warning that "violation of this policy will lead to discipline up to and including termination"
4. Promises of long-term security, fulfillment and happiness
5. Inadequate Policy Against Harassment
6. Inadequate or no Drug and Alcohol Policy
7. Incomplete EEO policy
8. Vacation policy containing "use it or lose it" language
9. Incorrect FMLA policies
10. No arbitration policy

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**Comply with**  
**Time Recording**  
**Requirements**

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## Time Records: Don't Let Employee Time Pass You By

### Make Sure...

- **ALL employees clock in and out**
- **Employee records accurately reflect hours worked**
- **Employees consistently follow timekeeping procedures**



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**Comply with  
Wage / Hour  
laws**



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## The Basics

- Minimum wage
- Overtime – 8 / 40
- Record keeping
- Meal & Break Periods
- Child labor
- Equal pay

**Remember – State laws can vary  
from the FLSA!**

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**Prevent  
Harassment  
And  
Discrimination**

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## Types of Sexual Harassment

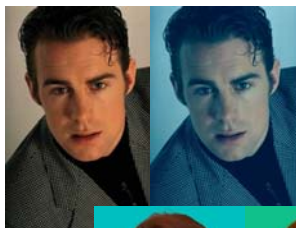


- Quid Pro Quo
- Hostile Working Environment



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## Same-Gender Sexual Harassment



It's Illegal



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*Burlington Industries, Inc. v. Ellerth*

*Faragher v. City of Boca Raton*

## The Importance of Preventive Action

The U.S. Supreme Court has announced that employers who take steps to prevent harassment may avoid liability

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**FB&P**



*Burlington Industries, Inc. v. Ellerth*

*Faragher v. City of Boca Raton*

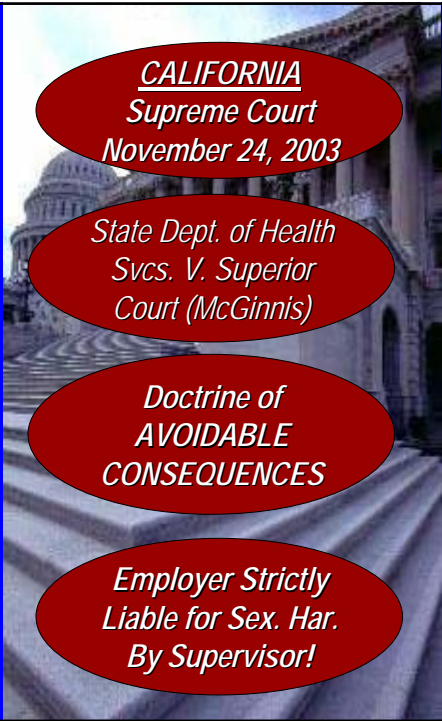
## The Importance of Preventive Action

An employer may avoid liability if it can show:

1. That the employer exercised reasonable care to prevent and promptly correct any sexually harassing behavior.
2. That the employee unreasonably failed to take advantage of any preventive or corrective opportunities to avoid the harm.

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**CALIFORNIA**  
**Supreme Court**  
 November 24, 2003

*State Dept. of Health Svcs. V. Superior Court (McGinnis)*

**Doctrine of AVOIDABLE CONSEQUENCES**

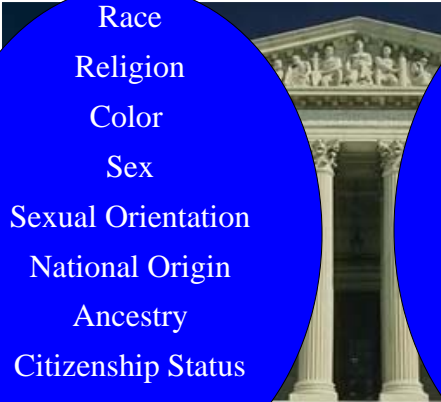
*Employer Strictly Liable for Sex. Har. By Supervisor!*

An employer may minimize or avoid damages if it can show:

1. The Employer took reasonable steps to prevent and correct sexual harassment;
2. The Employee unreasonably failed to use the preventative and corrective measures provided by Employer; and
3. Reasonable use of the Employer's procedures would have prevented at least some of the harm

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## Employment Discrimination: Protected Categories



Race  
 Religion  
 Color  
 Sex  
 Sexual Orientation  
 National Origin  
 Ancestry  
 Citizenship Status

Uniform Service Member Status  
 Marital Status  
 Pregnancy  
 Age  
 Medical Condition  
 Disability  
 Gender Identity

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## Fine, Boggs & Perkins LLP HR Compliance Program

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- **Step 1** – Employee Handbook
  - Discounted rate for customized handbook
  
- **Step 2** – Training & Seminars
  - Mandatory harassment training
  - Management training Seminars
  
- **Step A** – HotLinkHR Discounts



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## HotLinkHR

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- Application
- Hiring
- New Hire Paperwork
- Training
- Pay Plans & Calculators
- Performance Reviews
- Discipline and Termination
- Legal Advice Retainer



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HotlinkHR HMS - Microsoft Internet Explorer

Address: https://www.hotlinkhr.com/main.asp

Aardvark's Auto Emporium (Demo) Home Legal Admin Support Logout Cory King1

Overdue Policies Training Hotline Hiring NewHire Perf Mgmt CIS Pay Toolkit Resale


### HOME

## Welcome, Cory King1!

**Company Bulletin**

Please review the new Parking Policy in the Employee Handbook and electronically sign the handbook no later than February 28, 2006. Human Resources will be monitoring compliance. Thank you.

**Compliance**

**Attention—You are overdue for one or more activities!**  
Update your overdue activities by clicking the Overdue icon  in the upper left hand corner of your screen.

**Company Scorecard** - Review company compliance [Click here → Info](#)

**Regulation Updates**

<a href="#">Warning-Sex Offender History Checks</a>	10/1/2005
<a href="#">DOL Announces New Final Wage-Hour Regulations</a>	4/20/2005

[Click here to view all updates → View](#)

**HotlinkHR News**

**Updates** - Review latest updates. [Click here → Info](#)

Screen Tips

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Done Internet

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Address: https://www.hotlinkhr.com/main.asp

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### HIRING

## 1: Application Screening

Display: Pending Date Range: 30 days

Applications

NAME	REQUESTED POSITION	PHONE	APPLIED	Did application pass?		
				YES	NO	PEND
<a href="#">Dougall, Patricia</a>	Parts--Counter Person	--	2/1/06	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
<a href="#">Black, Ann</a>	Sales--Closer	--	2/1/06	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

TOTAL: 2 [Clear](#) [Save](#)

Screen Tips

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**NEWHIRE**

- Accessory New Hire Checklist
- Agreement - At-Will Employment and Arbitration Agreement (English)
- Agreement - At-Will Employment and Arbitration Agreement (Spanish)
- Agreement - Confidentiality Agreement
- Agreement - Privacy Policy and Safeguarding Agreement (English)
- Agreement - Privacy Policy and Safeguarding Agreement (Spanish)
- Form - DE 34 California EDD Report of New Employees
- Form - DE 4 California EDD Withholding Allowance Certificate
- Form - Emergency Contact Information
- Form - I-9 Employment Eligibility Verification
- Form - W-4 Federal Withholding
- Letter - COBRA Information Letter
- Notice - DE 2511 Paid Family Leave Insurance Program (English)
- Notice - DE 2511/s Paid Family Leave Insurance Program (Spanish)
- Notice - DE 2515 California EDD State Disability Insurance (English)
- Notice - DE 2515/s California EDD State Disability Insurance (Spanish)
- Notice - Notice Concerning Workers' Compensation Laws (English)
- Notice - Notice Concerning Workers' Compensation Laws (Spanish)
- Policy - Meal and Rest Period Policy Rights
- Policy - Notice of Company Policy Against Harassment (English)
- Policy - Notice of Company Policy Against Harassment (Spanish)
- Policy - Notice of Proposition 65

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**PAY** Flat Rate Service Technicians Overtime Pay Calculator Close

Guides Forms Example Pay Plans **Overtime Calculators** Overtime Worksheets

Pay Period:  thru  ?

SELECT EMPLOYEE

(1a) Total Flat-Rate Pay  ?

(1b) Total Bonuses and Spiffs  ?

(1c) Total Hours Applicable to Bonuses and Spiffs  ?

(3) Total Straight Time Hours  ?

(4a) Overtime Hours Worked at 1.5x Rate  ?

(4b) Overtime Hours Worked at 2.0x Rate  ?

(4c) Overtime Hours Worked at 1.5x Rate Applicable to Bonuses and Spiffs  ?

(4d) Overtime Hours Worked at 2.0x Rate Applicable to Bonuses and Spiffs  ?

(14) Is the technician required to provide his/her own tools?  Yes  No ?

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*Thank you for your time!*

Questions?

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