



## Farrell Fritz Client Advisory

December 2012



### The 2012 Employment Law Holiday Countdown



As we close 2012, keep in mind these 10 employment law tips!

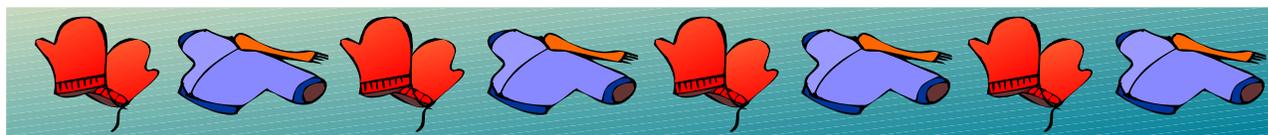
**Tip #10. Overtime: When to Pay.** Paid holiday hours need *not* be included in the total number of hours worked in a given workweek for the purpose of calculating overtime. But, remember, your handbook policy may designate paid time off time as time worked for overtime purposes.

**Tip #9. Calculating FMLA Leave During the Holidays.** An employee on FMLA leave is deemed to use an entire week of his/her entitlement even when a paid holiday falls within the work week. If the employee is on intermittent leave, the paid holiday will not count as FMLA time.

**Tip #8. Internet Holiday Shopping.** Review your policy to determine whether occasional personal use of the Company's computers and internet are permitted. Even if allowed, personal use of the internet should never interfere with an employee's job responsibilities. When enforcing an internet use policy, remember consistent enforcement is the key to minimizing disruption and claims of unfair treatment.

**Tip #7. Equal Employment Policies.** Year-end is often synonymous with wage increases, bonuses and promotions. Equal pay cases are on the rise. Now may be a good time to review compensation across departments and identify potential areas vulnerable to an equal pay challenge. Although federal and state laws require equal pay for equal work, the law does not prohibit pay differences based on skills, experience and/or seniority.

**Tip #6. Reasonable Accommodations.** Federal and state laws require companies to reasonably accommodate employees' religious beliefs and practices unless the accommodation creates an "undue hardship." Whenever an employee requests a religious (or disability) accommodation, you should engage in an interactive dialogue and answer the following questions: What is the job requirement that conflicts with the religious beliefs? Would granting the accommodation result in a significant expense or difficulty?





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## The 2012 Employment Law Holiday Countdown, **continued**



**Tip #5. Diversity.** With increased diversity in the workplace comes a variety of celebrations and beliefs. In most cases, companies should limit business activities that have a religious undertone. Instead, encourage your organization to embrace all holiday celebrations to avoid claims of unfair treatment.

**Tip #4. Gift Giving May Involve the IRS.** When giving employees extra compensation as a way to say “thank you,” remember to include all such compensation in the employees’ wages! While *de minimus* gifts need not be included in taxable compensation, all gift cards are subject to withholding taxes.

**Tip #3. Vacation, Sick and Personal Time.** The holidays are a popular time for vacation requests. If your organization requires staff during the holidays, consider implementing a procedure for granting time off that reduces claims of favoritism, or worse.

**Tip #2. Alcohol and Drug Free Workplace Policies.** Whether at the Company’s holiday party, department lunch or client celebration, alcohol consumption should be limited and consistent with your Company’s policies. Consider limiting alcohol at the Company’s holiday party or providing transportation home following a late night gathering. Also, remind your management team to address inappropriate conduct immediately.

**Tip #1. Sexual Harassment Policies.** December is often a time for social gatherings among colleagues. Such celebrations encourage a relaxed atmosphere and familiarity that may be misinterpreted. Holiday parties can also be an excuse for rogue behavior that violates the Company’s policies. Holiday time or not, promptly investigate all complaints of inappropriate workplace conduct!

*If we can help you, please contact:*

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