

# First Financial Employee Leasing, Inc.

## Newsletter

March 2010

Issue 8

- **You can safeguard your company with a review of your on-call policy.**
- **Don't have a policy? Now is the time to consider developing one.**

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### When Providing Cell Phones and Laptops Can Get You Sued

More employers are getting hit with lawsuits these days from workers claiming that carrying these devices is so restrictive that they should be considered "on duty - engaged to wait" and paid for it (including overtime).

A few examples of recent lawsuits against employers:

- A maintenance man sued for unpaid wages for time he spent responding to messages while away from work. He received the messages on his employer-provided cell and had to respond within 15 minutes.
- Medical-equipment service representatives sued to get paid for the time they were required to spend responding to customer questions. They couldn't drink alcohol while on call and had to respond within 30 minutes.
- Another group of workers alleged their employer required them to be on call during meal breaks, stay on the premises and be in uniform.

The details may vary but, it all comes down to whether these non-exempt employees were so restricted by their on-call duties that they were essentially working extra hours without pay.

Here are some problems to watch for:

- *Overly Restrictive Travel* - Having employees stay on-call within 5 minutes is probably too restrictive. Requiring them to be within 1 hour's drive is probably not overly restrictive.
- *Immediate Response* - Requiring calls be returned within 30 minutes has been deemed OK, but a shorter requirement probably wouldn't be.
- *Uniform Requirements* - Requiring employees to wear uniforms while on call is too restrictive and they would need to be compensated.
- *Frequent Calls* - Employees have too little freedom and need to be compensated if they have to answer work-related calls frequently.

### FFEL Credit Reporting - Making Your Payments Count

Did you know that regular monthly obligations such as child support, alimony, wage garnishments and health/life insurance are not reflected in your credit profile? If you answered NO, then you are not alone.

FFEL has aligned with an industry leader in offering a new service to all employees that helps build credit by reporting these non-traditional payments. For just 95¢ a week, employees can make these payments count toward their credit rating. Be sure to tell your employees about this new and innovative service. Go to [www.ffel.net](http://www.ffel.net) and click on the scrolling toolbar for more information and a sign-up form.

### Policing Off Duty Conduct - How Far Can You Go?

You discover that the company's sales manager is dating the marketing director of your biggest competitor, or that one of your cashiers has a habit of drinking a case of beer after work. Can you fire these workers or at least ask them to change their behavior without getting hit with a discrimination or privacy lawsuit?

Here's the litmus test: If an employee's off-duty activity puts your company in legal or financial jeopardy, courts will be more willing to let you regulate it. Disciplining staff for participation in lawful conduct outside of work is a slippery slope.

While federal law is silent on the issue, states aren't. So far, 30 states and the District of Columbia prohibit employers from discriminating against workers because they participate in other "lawful activities".

4 ways to stay out of trouble:

1. Focus on the off-duty behavior's effects on job performance rather than the conduct itself. Be able to point to a legitimate business reason for discipline.
2. Avoid blanket restrictions against socializing with competitors. Such overly broad rules infringe on privacy. Instead, protect company secrets by having employees sign non-disclosure agreements.
3. Seek legal advice before firing or disciplining an employee for off-duty activities.
4. Apply an even hand. Don't suspend one employee for off-work behavior and then ignore another similar circumstance.



**FIRST FINANCIAL**  
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## Benefits Corner

### **AFLAC Individual Insurance Policies Are Available to All Employees**

AFLAC policies pay individuals directly if they are hurt and miss work or are hospitalized. Policies cover many needs - Accident, Cancer, Disability, Hospitalization, Long-term care to name a few. Get cash paid directly to you! AFLAC processes most claims within 3 days.

Employees can contact the FFEL Benefits Department for more information and to enroll. No employer contribution is required and premium deductions are made directly from the employee's paycheck.

## Let's Make It Daylight Safety Time

Daylight saving time begins Sunday, March 14, 2010 at 2 a.m., and it starts a particularly difficult time of year for Bob Eubanks of Leesburg, Florida. It was 14 years ago that Eubank's 15 year old son, Jonathan, was struck and killed by a pick-up truck as he waited alone in the dark for his school bus.

"I just tense up every year when this time comes around," Eubanks told the Orlando Sentinel. "The early morning is so dangerous. I think they ought to have a light at every bus stop where you have to wait at that time of morning."

After his son's death, Eubanks ran a campaign to educate parents and other drivers. Children, he said, take it for granted that motorists can see them if a car's headlights are on. Meanwhile, drivers aren't used to having children out before daylight. Eubanks said kids should stay at least 5 feet from the road and walk against traffic.

Your workers - particularly those who walk to train or bus stations - face similar dangers with the advent of daylight saving time, and they could no doubt benefit from a reminder of those risks.

But if daylight saving time is dangerous, why has it been adopted by so many countries around the world? Daylight saving time has been in use in the U.S. and many European countries since World War I. The main purpose of daylight saving time (called "Summer Time" in many places in the world) is to make better use of daylight. We change our clocks during the summer months to move an hour of daylight from the morning to the evening.

The end of daylight saving time (November 7th, this year) has been found to lead to a significant increase in evening traffic accidents in the days and weeks immediately following the switch. Walkers are three times more likely to be hit and killed by cars right after the switch than in the month before daylight saving time ends.

Keep in mind that, come Monday morning, many of your employees will be reporting to work with an hour less sleep under their belts. And, while that may not seem like a big deal, consider a study by the National Sleep Foundation that found in a recent year:

- 40% of adults have been sleepy enough during the day that it interferes with their daily activities
- 18% have this kind of sleepiness at least a few days a week
- 62% drove while feeling drowsy
- 27% have dozed off, if only for a few seconds, while driving
- 23% know someone who had an auto accident due to falling asleep at the wheel

On average, there were 3.6 more injuries on the Mondays following the switch to daylight saving time compared to other days, and 2,649 more days of work were lost as a result of those injuries. That's approximately a 68 percent increase in lost work days. Work experience did not appear to play a role in the number of injuries suffered.

In addition, be sure to remind your employees - Fire Prevention authorities recommend that smoke alarm batteries be changed twice yearly, at the start and at the end of daylight saving time.

## The Importance of a Signed Receipt & Acceptance of the Employee Handbook

The handbook provided by First Financial Employee Leasing should be distributed to each new employee upon hire. Handbooks are available in English and Spanish. When a new Enrollment package is submitted, your Processor will forward a handbook for that employee (English enrollment package - English handbook. Spanish Enrollment package - Spanish handbook). If you would like to utilize this handbook as part of the orientation process, contact your Processor to request a few extra copies. The first page of each handbook contains a Receipt and Acceptance form. It is very important that every employee receive a handbook and that the original signed receipt page is kept and maintained by the client employer.

The handbook contains many valuable policies; however, the focus of this article is to bring your attention to the section on Safety Rules, which begins on page 29. If your employee is required to drive as part of his or her job, or if your employee is working with machinery or heavy equipment, there are generic safety rules outlined in this section of the handbook to protect you, the employer, in the event of a workers' compensation injury. While a claim cannot be denied because of failure to follow a safety rule, payment of any corresponding lost wages can be significantly reduced.

The law provides that if an injury is caused by the knowing refusal of an employee to use a safety appliance or observe a known safety rule, payment of lost wages after a workplace accident can be reduced by 25 percent. This is only true, however, if you can prove that the employee was advised of the safety rule prior to the accident occurring, thereby making the signed Receipt and Acknowledgement page for the Handbook critical.

It's a good idea to review the handbook periodically to familiarize yourself with the policies contained therein. If you are interested in customizing any of the safety rules or human resource policies to suit your particular business needs, please contact either Tom Hughes, Safety Manager or Sandy Mays, Human Resources Manager at First Financial Employee Leasing for assistance.