



Navigating you through the various legal employment and business issues that your Company encounters as you journey to business success!

# Navigational Beacon

A Simon | Paschal PLLC Publication.

Q2 2014

## Hobby Lobby's Freedom

U.S. Supreme Court to determine whether business can use religion to avoid portions of Affordable Care Act

Oral arguments are complete and now we must wait for the U.S. Supreme Court to issue its ruling whether Hobby Lobby must provide health care benefits that Hobby Lobby feels are against its owners' religious beliefs. On one side, the U.S. government argues that the religious beliefs of a for-profit company do not justify an exemption to the Affordable Care Act (ACA). The government already provides exemptions to the contraceptive portion of the ACA for religious non-profit corporations and religious institutions. Hobby Lobby wants to extend this exemption to closely-held companies who have certain religious beliefs. Justice Sotomayor raised the question of how do you determine the religious beliefs of a for-profit company. Is it the beliefs of the majority of

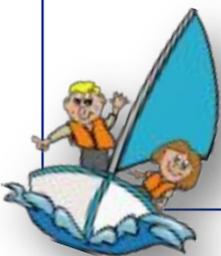
shareholders? In the case of Hobby Lobby this question is not as hard, but the Justice is foreshadowing a possible slippery slope if the



*U.S. Supreme Court*

## Breakfast:

Join us on Tuesday, June 10, 2014 at 8:00 a.m. for our Quarterly Breakfast at our office (13601 Preston Rd., Ste. W870, Dallas 75240). We will provide breakfast and a chance to network followed by a short presentation on a **relevant topic to your business.** RSVP to [info@simonpaschal.com](mailto:info@simonpaschal.com).



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## When does your workweek start?



This may seem a very simple question; or perhaps, even an irrelevant question. Many of us feel as if we never stop working, often doing work on the weekend. For many

employees, their workweek starts on that *dreaded* Monday and ends on Friday. From our experience, most company policies identify the workweek as Sunday at 12:00 a.m. until Saturday at 11:59 p.m.

What's the relevance of all this, you ask? The Fair Labor Standards Act requires an employer pay an employee overtime for any hours over forty hours an employee works in a "workweek." The FLSA does not, however, mandate when an employer's workweek starts or ends. The workweek is seven days, but an employer has the right to set when this seven-day work period begins and ends.

Depending on a company's workflow, an employer may benefit from establishing a workweek that separates the employer's generally busy days. This may have the effect of preventing an employee from working more than 40 hours in a workweek, but still working during the time the employer needs worked.

While this tip may not benefit every company, the key takeaway is that every company policy needs to be examined. Is the policy in place because it's legally required? What policies can an employer customize? Make the policies work for your business and save you money in the process.



## Spring Cleaning Checklist:

The weather is finally starting to warm up and no doubt you have started to prep your yard for Spring and Summer. While many of us understand the importance of cleaning out the flower beds, laying down fresh mulch, and applying fertilizer to the yard, often times as business owners and company executives we do not take the same Spring cleaning steps in our companies. Now is a great time to prep your business for the year ahead. Here are just a couple quick ideas for your business:

- 1.** Update your Company Handbook. Make sure all the policies still make sense for your company and that any "unwritten rules" are put in the handbook.
- 2.** Employee Training. It's a good rule of thumb to provide employee training at least once a year. Select a section or two in your handbook (complaint reporting, vacation policy, etc.) and make sure everyone understands what is expected.
- 3.** Performance Reviews. Take the time to sit down with your employees and let them know areas they can improve and perhaps, more importantly, areas you find them excelling!



Another great Simon | Paschal client

## Client Spotlight

Business Furnishings, Inc. is an office furniture store located on Midway in Addison, TX. BFI sells new and used office furniture ranging from executive desks to cubicles. If you have been to our office you've seen BFI's furniture in our lobby, break room, and work room. We are proud to have Business Furnishings, Inc. as a client and we appreciate the faith they put in us. Check out more about this great company at [www.businessfurnishingsinc.com](http://www.businessfurnishingsinc.com).



cont.

Supreme Court finds for Hobby Lobby.

The more interesting issue if the Supreme Court finds for Hobby Lobby may be how far this exemption is extended to other laws. For example, currently, religious institutions and certain non-profit organizations are exempt from Title VII anti-discrimination laws. If the Supreme Court rules for Hobby Lobby, will for-profit corporations be allowed to discriminate against employees based on their religion?

Hobby Lobby's argument centers on the contention that the ACA forces Hobby Lobby to pay for contraceptive measures it equates to abortion.

Hobby Lobby argues the contraceptive mandate is not the least restrictive way to pursue a compelling state interest. For example, the government could use tax dollars to pay for the contraceptives as opposed to requiring a company directly pay for the drugs. Check back for updates.

## What Does the NLRB's Decision Mean For Your Business?

Recently the National Labor Relations Board (NLRB) Regional Office in Chicago ruled that college football players for Northwestern University are employees and therefore have the right to unionize. No doubt there will be a long legal battle ahead as to whether this ruling will stand and then an even longer time period to know what impact, if any, this will have on college football and NCAA sports. The real question for companies today is what impact this ruling may have on their respective businesses.

Texas is a "right to work" state, which means an employee does not have to join a union to work in a particular industry. This greatly weakens unions and is a key reason why union presence in Texas is minimal. That said, just because your employees are not members of a union does not mean the NLRB does not have jurisdiction over your business. The NLRB is the policing body for the National Labor Relations Act (NLRA), which has provisions that apply to both union and non-union employees.

For example, the NLRA makes it unlawful for employers to prohibit employees from discussing their wages and salaries amongst each other. It is quite common for companies to have policies that forbid employees from discussing salaries and violations of the policy can result in discipline. The intent is generally so one employee does not get upset that another employee is paid more and not to disguise unlawful payment practices (i.e., men paid more than women). Regardless of intent, the NLRB forbids this policy. There are, however, some ways to craft policies that further the goal of limiting gossip and jealousy while complying with the rules of the NLRA.

## Health Care Reform 2014 & Beyond

On Wednesday, April 23, 2014 from 8:30 a.m. to 10:30 a.m., the lawyers at Simon | Paschal will be on a panel discussing the effects the Affordable Care Act will have on your company in terms of cost, legal, and accounting compliance. From a legal perspective, we will discuss how the increased audit scrutiny from the ACA has the potential to unearth other compliance issues (think wage, I-9, and independent contractor audits). Other panelists include tax and benefits experts. The event will be at the JP Morgan International Building, 14221 North Dallas Parkway, Tower 2, Floor 3, Dallas, Texas 75254. RSVP is required so please email us at [info@simonpaschal.com](mailto:info@simonpaschal.com) if you have not received an email invitation. No cost to attend. A big thanks to Chase Bank, Now CFO, and Gulf Coast Business Credit for sponsoring the event.



## 2014 Texas Super Lawyers: Rising Stars

Please excuse our shameless self-promotion, but we had to share the news. Paul Simon and Dustin Paschal were selected as 2014 Texas Super Lawyers: Rising Stars. This is Dustin's 3rd straight selection. We are humbled that our peers have selected us for this award and we strive daily to live up to such standards.

*The small print: The contents of this newsletter are not intended to provide specific legal advice and you should not take any action based on the content of this newsletter without seeking legal counsel. If you have specific questions, please contact a lawyer, preferably us!*



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