

January 5, 2012



**Happy New Year!**

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### **UPCOMING EVENTS:**

**Smaller Business Association of New England (SBANE) Legal Update HR Series, January 10, 2012**

Attorney Nina Kimball and Attorney Robert Shea will speak on the latest developments in employment law, including:

- Independent Contractor Law Developments
- Massachusetts Wage Act Developments
- The NLRA Posting Requirement
- Employment Arbitration Developments
- Retaliation Law Developments
- "Cat's Paw" Liability Claims
- Transgender Equal Rights Act of 2011
- VOW to Hire Heroes Act of 2011
- Non-Compete Legislation Developments

## **Catching up with our clients . . .**

★ **1. Snow Days: To pay or not to pay?** Although the ground is still bare, it was just a year ago that 18" of snow blanketed Boston the day after Christmas, disrupting transportation and making many roads impassable for days. When a blizzard makes getting to work difficult, employers have to address whether to pay or not to pay exempt employees who do not make it to work. The answer depends on whether the workplace is open. If it is open and the exempt employee does not show up, the missed day would appear to be an absence "for personal reasons" and would not be required to be paid as it would be a permissible deduction. If the workplace is closed and the employee was "ready, willing and able" to work, the exempt employee would need to be paid.

★ **2. NLRB Notice Posting Requirement Delayed Again.** The NLRB has delayed until April 30, 2012 the implementation of its new rule, "Notification of Employee Rights Under the National Labor Relations Act." The Rule requires all employers subject to the NLRA (i.e., virtually all private sector employers) to post a notice of employee rights under the NLRA. The Rule's effective date has been postponed twice, most recently due to legal challenges to the Rule.

★ **3. Pay Roll Tax Cut Extended.** Congress enacted a two-month extension to the payroll tax cut that lowered the amount employees contribute to Social Security by two percent. Thus employees will continue to contribute at the 4.2% level instead of 6.2% for January and February 2012. Stay tuned for further developments.

★ **4. Social Security Wage Base Increased.** Another Social Security payroll development is that for the first time in three years the wage base has been increased on which employees must pay Social Security taxes, rising from \$106,800 to \$110,100.