



MVA Employment & Labor Client Seminar 2010

## SPRING CLEANING

### TOPIC OVERVIEWS

#### **“Protecting Your Valuables: Auditing Company Practices Regarding Trade Secret Protection”**

Is your business information a protectable trade secret? Are confidentiality agreements necessary? How effective is your confidentiality policy in your employee manual? What can and should you do to identify and protect trade secrets under the North Carolina Trade Secrets Protection Act? Our discussion will cover the steps you should follow to “clean house” and protect your company’s valuable internal information and data.

#### **“Polishing Policies with GINA: The Genetic Information Nondiscrimination Act”**

Late last year, the Genetic Information Nondiscrimination Act (“GINA”) went into effect. In addition to race, gender, age and other protected characteristics, employers now are prohibited from discriminating against employees based on their genetic information. Employers also have obligations not to intentionally acquire and not to use or disclose an employee’s genetic information. Similarly, group health plans and health insurers are prohibited from collecting genetic information and from using or disclosing genetic information either for underwriting purposes or in connection with enrollment. Genetic information includes a broad array of information, including the employee’s family medical history. This portion of the seminar will update attendees on GINA’s requirements and provide guidance on updating policies, postings and procedures to comply with this new law.

# TOPIC OVERVIEWS

(continued)

## **“Controlling the Clutter of Benefits Compliance: Annual Employee Benefits Update”**

A number of noteworthy developments have occurred in the employee benefits arena during the course of the past year. This portion of the seminar is devoted to updating attendees with respect to the following areas: (i) the COBRA subsidy; (ii) the Internal Revenue Code § 409A document correction program; (iii) the Mental Health Parity and Addiction Equity Act; (iv) the Department of Labor’s proposed investment advice rules with respect to individual account plans; and (v) fiduciary responsibilities. Attendees will receive counsel on the recent developments in these areas of the law and guidance on spotting and avoiding potential compliance pitfalls.

## **“Dusting Off an Old Law: Auditing Wage and Hour Practices to Ensure Compliance with the Fair Labor Standards Act (FLSA)”**

The Fair Labor Standards Act (the “FLSA”) has been on the books in some form or another since 1938. Employers have often been caught unawares by the FLSA’s detailed and often less than clear provisions. In recent years, plaintiffs’ lawyers have taken advantage of the FLSA to catch employers who are not in compliance. Now the Obama administration seems intent on catching employers who may be running afoul of the law as well. The administration has recently announced the addition of over a hundred new investigators to the Department of Labor, the agency responsible for enforcing the FLSA, the proposed infusion of some \$25 million into the DOL’s budget for 2011, and a plan under which the DOL and Treasury will join hands to address the misclassification of employees as independent contractors. This portion of the seminar will discuss the three most common errors that employers make under the FLSA: (1) misclassification of employees as exempt; (2) failing to properly count as hours worked time spent by employees on activities ancillary to their jobs; and (3) misclassification of employees as independent contractors. The topic will include an explanation of the law, do’s and don’ts, and suggestions for auditing employer practices.