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North Dakota
EMPLOYMENT LAW LETTER

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CIVIL RIGHTS

Can ND employers discriminate based on sexual orientation?

by Lisa Edison-Smith

A divided U.S. Supreme Court recently ruled that the Colorado Civil Rights Commission (CCRC) violated a baker's rights by determining that he unlawfully discriminated on the basis of sexual orientation when he cited his religious beliefs in refusing to bake a wedding cake for a same-sex couple. Although the Court stopped short of saying that businesses can refuse service to same-sex couples in all situations, it concluded that the CCRC showed hostility to the baker's religious beliefs in this case. If businesses may—sometimes—refuse services based on sexual orientation, what about employers? This article discusses the murky status of state and federal law after the Masterpiece Cakeshop case and explores the risks of discrimination against the LGBT community.

Icing on the cake?

Baker Jack Phillips was at the center of the wedding cake discrimination claim. Same-sex couple Charlie Craig and David Mullins visited Phillips' Masterpiece Cakeshop in 2012 to talk to him about baking a wedding cake for them. Phillips told them that he didn't do cakes for same-sex weddings because of his Christian beliefs and the fact that same-sex marriage wasn't lawful in Colorado. Of course, all of that changed in 2015, when the Supreme Court ruled that same-sex marriages must be recognized nationwide.

Craig and Mullins filed a complaint with the CCRC alleging that Phillips violated the state's public accommodations law prohibiting discrimination in sales to the public based on a variety of protected categories, including sexual orientation. The commission, and later the Colorado Court of Appeals, ruled in their favor. Phillips sought review from the U.S. Supreme Court, however, and ultimately won.

Justice Anthony Kennedy, who wrote the majority opinion, stated that the tension between the rights of LGBT individuals and the religious beliefs of others "must be resolved with tolerance, without undue disrespect to sincere religious beliefs, and without subjecting gay persons to indignities when they seek goods and services in the open market." However, Kennedy went on to explain that the CCRC had displayed hostility toward religion in this case by, among other things, comparing Phillips' refusal to bake the cake to the Nazis' treatment of Jews. Justice Kennedy and the majority concluded that the rhetoric of some of the commissioners created doubt about the "fairness and impartiality" of the CCRC's decision.

Who won?

Of course, the baker and advocates for the religious right contend that the case vindicates the rights of businesses

UNION ACTIVITY

Teamsters president slams threat to public-sector unions. Teamsters General President James P. Hoffa spoke out against the U.S. Supreme Court case *Janus v. AFSCME* during an April conference, saying the case is about politics and "people who hate unions." The case could remove the requirement that nonunion members pay certain union fees to cover costs of collective bargaining. In March, Hoffa also met with Senator Bernie Sanders (I-Vermont) to discuss the threat the *Janus* case poses to public-sector unions.

Unions demand disclosure of how companies use gains from tax cut. Leaders from the Communications Workers of America, the Service Employees International Union, the American Federation of Teachers, and the Teamsters in April sent letters to several corporations requesting detailed information about how they are using their gains from the recently enacted corporate tax cut. The request is to determine how much the companies are benefiting from the tax cut, what portion of those benefits they are using to raise wages and create jobs, and how the tax cut legislation has affected their decisions to send and keep jobs overseas. A union statement said failure to disclose the information could subject the companies to an unfair labor practice complaint under the National Labor Relations Act (NLRA).

Laborers' union praises changes to permitting processes. Terry O'Sullivan, general president of the Laborers' International Union of North America (LIUNA), spoke out in April to praise the Trump administration's action to streamline the federal review and permitting processes for major infrastructure projects. "LIUNA members are America's builders, but costly and time-consuming review processes are holding us back from rebuilding our nation's great roadways and bridges, unlocking our domestic energy reserves, and making crucial repairs to our aging drinking water systems," O'Sullivan said.

Workers call for wage theft investigation. The Communications Workers of America announced in April that workers at five federal contract call centers operated by General Dynamics Information Technology filed wage theft complaints with the U.S. Department of Labor's (DOL) Wage and Hour Division (WHD), calling for an investigation of allegations of misclassification and underpayment of workers. The complaints were filed on behalf of current and former workers in Phoenix, Arizona; Tampa, Florida; Corbin and London, Kentucky; and Waco, Texas. The new allegations follow other recent wage theft complaints made by the union on behalf of workers at four of the company's other call centers: Lawrence, Kansas; Bogalusa, Louisiana; Hattiesburg, Mississippi; and Alexandria, Virginia. ✤

to refuse service to gays based on sincerely held religious beliefs. On the other hand, because the Supreme Court explicitly stated that its decision applies only to this case and recognized that gay people's civil rights are protected, the ACLU contends the decision reaffirms the Court's "long[-]standing rule that states can prevent the harms of discrimination in the marketplace, including against LGBT people."

The ultimate impact of the "wedding cake" decision on so-called public accommodation cases remains to be seen. In fact, the Court is currently deciding whether to hear a case against a Washington florist who refused to provide flowers for the wedding of two men in 2013. The Court certainly left open the door to claims that, in other contexts, state laws prohibiting discrimination by private businesses in providing goods or services based on sexual orientation may be enforceable.

But what is the impact, if any, of the *Masterpiece Cakeshop* ruling on employers considering discrimination policies and workplace actions aimed at members of the LGBT community—particularly in North Dakota?

Are LGBT workers protected or not?

North Dakota employers are governed by two primary laws prohibiting workplace discrimination based on "sex": the North Dakota Human Rights Act (NDHRA), which is applicable to private-sector employers with one or more employees, and Title VII of the Civil Rights Act of 1964, which applies to employers with 15 or more employees.

The NDHRA prohibits discrimination in employment, housing, and public accommodations based on "sex." Unlike our neighbor to the east, however, North Dakota doesn't define "sex" in the statute. The Minnesota Human Rights Act expressly defines "sex" as including sexual orientation and gender identity. Although the cities of Fargo and Grand Forks prohibit discrimination against city employees based on LGBT status, none prohibits discrimination against private-sector employees.

Similarly, Title VII, a federal statute, doesn't include LGBT status in its definition of "sex." Thus, at first glance, it would appear that North Dakota workers are not protected in any manner against discrimination based on LGBT status. The discussion doesn't end there, however.

The Equal Employment Opportunity Commission (EEOC) has consistently taken the position in recent years that sex discrimination under Title VII includes discrimination based on sexual orientation or gender identity. In fact, the EEOC filed a lawsuit in 2016 accusing a Williston employer of subjecting a male employee to harassment based on his sexual orientation.

In *EEOC v. Rocky Mountain Casing Co.*, the EEOC alleged that coworkers called the employee offensive names, used homophobic slurs, and made him the butt of derogatory sex-based comments. The employee's manager allegedly made offensive jokes about gays to and around the employee. Ultimately, the employer settled the case with the EEOC for $70,000 and agreed to conduct mandatory training and implement an antidiscrimination policy.

The EEOC has also taken the position that transgender status is covered under Title VII. In *Macy v. Dep't of Justice,* the agency held that intentional discrimination against a transgender individual because of her gender identity is, by definition, discrimination based on sex and therefore violates Title VII. Moreover, the EEOC takes the position that an employer's religious beliefs cannot be used to justify discrimination. At least one lower federal appeals court, the U.S. 6th Circuit Court of Appeals, agreed, concluding that a transgender employee who was fired after coming out to her boss was unlawfully discriminated against. The court further held that the discrimination wasn't justified by the employer's religious beliefs.

The EEOC's position isn't universally held across federal government agencies, however. In fact, the U.S. Department of Justice (DOJ) has taken a contrary position under the Trump administration and now argues that Title VII doesn't protect employees on the basis of sexual orientation or gender identity.

Ultimately, the issue will likely come down to another decision from the Supreme Court. A petition pending before the Court asks it to reconcile conflicting rulings between lower courts with regard to Title VII's protection of workers based on sexual orientation. The *Rocky Mountain Casing* lawsuit makes it clear that the EEOC will pursue discrimination cases against North Dakota employers based on sexual orientation under Title VII, at least until a contrary ruling comes down from the courts.

Practical advice

How does a legally savvy employer make sense of these conflicting messages when, to paraphrase Benjamin Franklin, nothing is certain except death and taxes? At this point, North Dakota employers with 15 or more employees clearly act at their own peril if they discriminate against LGBT workers, including transgender employees.

Despite the "wedding cake" case, until the courts provide further guidance, employers shouldn't count on arguing that their religious beliefs exempt them from Title VII claims by LGBT employees, at least not before the EEOC. The EEOC has made it clear that it will pursue such cases and will bring potentially expensive enforcement lawsuits against employers, even in North Dakota, where the legislature has consistently rejected adding protections for the LGBT community to the NDHRA. Federal contractors and subcontractors should also beware: Executive Order 13672, issued by the Obama administration, remains in place and prohibits covered contractors from discriminating against employees on the basis of sexual orientation or gender identity.

In the final analysis, treating all employees equally and preventing harassment and discrimination in the workplace not only reduces the risk of lawsuits but also simply makes sense, particularly at a time when almost 15,000 jobs remain open and unfilled in North Dakota. Stay tuned for further developments on this evolving issue.

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EMPLOYEE BENEFITS

New tax credit rewards companies that offer paid FMLA leave

Employers that offer paid family and medical leave may get an unexpected tax benefit next year at tax time. The tax reform law that passed earlier this year contains a little-noticed tax credit for employers that provide qualifying types of paid leave to their full- and part-time employees. The credit is available to any employer, regardless of size, if:

- *It provides at least two weeks of qualifying leave annually for employees who have been with the company for at least 12 months; and*
- *The paid leave is at least 50% of the wages normally paid to the employee.*

The IRS recently issued a series of FAQs on the credit that are designed as a temporary measure to help employers understand (and hopefully take advantage of) the credit while waiting for official guidance in the form of regulations. Let's take a look at some of the key things employers need to know to claim the credit on their 2018 taxes.

What types of leave qualify for the credit?

The credit is available when an employer pays for leave that would fall into the same categories for which leave is available under the federal Family and Medical Leave Act (FMLA). That includes both the FMLA's original reasons for leave (pregnancy, childbirth, and serious health conditions) and leave that relates to the military service of an employee's family member (military caregiver and qualifying exigency leave).

In addition, however, employers can claim the credit when they offer paid leave for *any* of the listed (FMLA-like) reasons. For example, an employer that offers paid parental leave would be able to claim the tax credit even if it doesn't offer paid leave for the other types of qualifying leave. Employers that offer self-funded disability benefits should discuss whether they can claim the credit for those benefits with their attorney.

The credit isn't available for paid sick leave, paid vacation, or paid time off unless it's specifically offered for one

or more of the qualifying reasons listed. Nor is it available for paid leave that is otherwise required by law.

Who must offer (and be offered) leave?

Employers don't have to be subject to the FMLA to take advantage of the credit. In other words, employers with fewer than 50 employees may claim the credit if they offer a qualifying type of paid leave.

The credit may be claimed when paid leave is offered to employees who (1) have worked for you for at least 12 months and (2) made less than $72,000 in the previous year. There is not yet any guidance on how the salary amount is calculated.

How much is the credit?

For employers that offer paid leave in the amount of 50% of an employee's wages, the credit is 12.5% of the amount paid. The credit is increased by 0.25% for each percentage point by which the paid leave exceeds 50% of the employee's normal wage, but it is capped at a maximum credit of 25%.

Ordinarily, employers would claim paid leave as a general business deduction for wages or salaries paid or incurred. To claim the credit, that deduction would have to be reduced by the amount of the credit claimed. So it's possible that you would claim the credit for some employees (those who make less than $72,000 per year) and the deduction for others (those who make $72,000 or more).

The maximum period of paid leave for which the credit may be claimed is 12 weeks.

Final thoughts

The law specifically requires employers to have a written policy describing the paid leave offered. In addition, employers are required to provide part-time qualifying employees a proportionate amount of paid leave (based on their expected work hours).

At this time, the credit is available only for wages paid in 2018 and 2019, which may make it unlikely that employers will adopt new paid leave policies just to claim the credit. If you've been considering paid leave, however, the availability of the credit (and a conversation with your attorney and/or accountant) may help you in your decision. ✤

WORKPLACE BULLYING

Harmless joke or hostile workplace?

by Michele L. (Warnock) Brott
Davis Brown Law Firm

A recent article in the Des Moines Register reported on an employer who was sued for bullying or a hostile work environment related to President Donald Trump's stance on immigration. The employee who sued is an American citizen of Hispanic ethnicity and was offended by the president's comments regarding Mexican immigrants. She alleged that in response, her Caucasian coworkers set out to "tease" her with screensaver images of the president and taunts that she was "illegal"—and they even signed her up as a volunteer for the president's campaign. The case was resolved without a public trial, so we have only one side of the story. However, the story is a useful training tool.

Depending on your company's culture, the problem might seem difficult—is it political speech because the issues are tied to politics? Private employers can suppress speech, even political speech and speech protected by the First Amendment to the U.S. Constitution. Is it immature and inappropriate for work but otherwise harmless? Everyone probably agrees that it's immature and shouldn't occur while employees are on the clock. But is it discrimination that creates a hostile work environment? It very well could be.

If this were your office, what would you do?

Did you know? Employers generally cannot act to remedy a situation unless they know about it. Usually, they learn when an employee makes a report or complaint. Otherwise, they learn because the behavior is out in the open and they would have to know because they can see or hear it.

Investigate. Once you "know," you must investigate in a timely and neutral manner. That means you must interview the person who is the subject of the teasing and hear her side. You must interview the accused and ask probing questions.

In the recent news story, the employer should have spoken with all witnesses who heard the employee being called "illegal." It should have asked if she saved the screensaver images and whether the IT department could figure out if there was a way to determine who changed

the images and when. It should have asked for copies of e-mails or documents corroborating that she was signed up for Trump's campaign. It should have considered whether it was important to record the interviews and whether the investigator should have been someone outside the company.

Remedy. Once your investigation is complete, it's time to plan how you will respond. Were the employee's complaints substantiated? If so, it might be time for discipline. If the employees who took part are management, then maybe they earned a demotion for their behavior. Perhaps they earned termination. Or maybe there's reason to believe that they can be rehabilitated and trained in a way that saves their jobs and upholds your antidiscrimination policy. Another possibility is that none of the employee's complaints can be corroborated. Perhaps you close the investigation without further action.

Regardless of the decision, you should follow the investigation and take action necessary to uphold your antidiscrimination obligations under your policies and Iowa law.

Prevent retaliation. Retaliation is illegal but is extremely common. Take steps to ensure the person making the complaint isn't retaliated against.

Bottom line

Although employees invent "new" ways to create personnel issues in the workplace, returning to the basics can often solve the matter.

This article first appeared in Iowa Employment Law Letter. The author can be reached at michelebrott@davisbrownlaw.com. ✤

WAGE AND HOUR LAW

WHD issues more opinion letters

In a follow-up to its recent reissuance of 17 opinion letters that had been issued (by the Bush administration) and withdrawn (by the Obama administration) in early 2009, the U.S. Department of Labor's (DOL) Wage and Hour Division (WHD) has already issued two more opinion letters. As you may recall, the agency had stopped providing such letters during the Obama administration, but the Trump DOL has revived the practice.

The new letters tackle the following topics: (1) whether and in what circumstances an hourly employee's work-related travel should be considered compensable time under the Fair Labor Standards Act (FLSA) and (2) whether short breaks taken for a health condition under the Family and Medical Leave Act (FMLA) are compensable under the FLSA. We don't frequently get much insight into the interplay between the FMLA and the FLSA, so the second letter is particularly interesting and instructive.

Travel time scenarios

In the first opinion letter, the WHD examined several scenarios involving travel time for hourly workers who performed their work responsibilities at different customer locations and had no fixed daily schedule. The employer provided the

WORKPLACE TRENDS

Women more likely to see pay disparity, survey finds. Nearly a third of women (32%) participating in CareerBuilder's Equal Pay Day survey in April said they don't think they are making the same pay as men in their organization who have similar experience and qualifications. That compares to 12% of men who think that way. The survey also found that men are more likely to expect higher job levels during their career, with 29% of men saying they think they will reach a director level or higher, compared to 22% of women. The survey also found that 25% of women never expect to reach above an entry-level role, compared to 9% of men. Almost a third of the women in the survey (31%) said they think they've hit a glass ceiling within their organizations, and 35% don't expect to reach a salary over $50,000 during their career, compared to 17% of men who expect that salary.

Study finds banning use of salary history easier than anticipated. The total rewards association WorldatWork has released data showing that 44% of employers that have implemented a ban on asking job candidates about their salary history say imposing the ban was either very or extremely simple. Just 1% reported implementing the ban was extremely difficult, and 8% said it was very difficult. The survey of WorldatWork members found that 37% of employers have implemented a policy prohibiting hiring managers and recruiters from asking about a candidate's salary history in all U.S. locations, regardless of whether a local law exists requiring the practice. Thirty-five percent of employers reported prohibiting the practice only when laws are in place. The data show that for employers that have yet to implement a nationwide salary question ban, 40% are somewhat likely or extremely likely to adopt a nationwide policy in the next 12 months.

Brand familiarity found important to attracting talent. Employers with low brand awareness are more likely to be overlooked by jobseekers, according to research from job site Glassdoor. A survey showed that candidates are 40% more likely to apply for a job at a company in which they recognize the brand compared to a company they have not heard of. The survey, conducted among 750 hiring decision makers (those in recruitment, in HR, and responsible for hiring) in the United States and the United Kingdom, also found 60% of those surveyed said their employer brand awareness is either a challenge or a significant barrier to attracting and hiring candidates. Seventy-five percent of those surveyed agreed that if a candidate is aware of their brand name and products or services, the recruiting process is easier. ✤

employees with a company vehicle, which they were allowed to use for work and personal purposes.

Let's take a look at the scenarios addressed, starting with the least complex.

Scenario #1. Hourly workers drive from home to multiple different customer locations on any given day. Some employees may have to report to their employer's offices first to obtain a daily itinerary of work to be performed and where. They drive their company cars the whole time—from home to their employer's location, and then from there to each customer location, and ultimately home at the end of the day.

Analysis. This one sounds easy—commute time isn't compensable, but travel from jobsite to jobsite is. The employee must be paid starting at the first jobsite of the day. An employee's commute to his employer's location at the beginning of the day is noncompensable commute time, while driving time between customer locations is compensable. If he goes directly from home to the first customer location, that drive time is noncompensable. His drive home from the last customer location at the end of the day is also noncompensable.

Scenario #2. An hourly technician travels by plane to New Orleans on a Sunday for a training class beginning at 8:00 a.m. on Monday at the corporate office. The class generally lasts Monday through Friday, with travel home on Friday after class is over or, occasionally, on Saturday when Friday flights aren't available.

Analysis. In general, travel away from home is clearly compensable when it "cuts across the employee's workday." For example, if an employee regularly works from 9:00 a.m. to 5:00 p.m. Monday through Friday, travel time during those hours is compensable not only on those days but on Saturday and Sunday as well.

The problem presented in this scenario, however, was that the employees didn't have regular work hours, so it was impossible to determine which hours during the trip were compensable (when they weren't actually working). The WHD proposed several possible solutions, including:

- Examining hours worked over the past month to determine whether a pattern existed that could be deemed regular work time;
- Using an average start and end time;
- Entering into an agreement with the employee regarding what hours are considered part of his regular work schedule or how much time will be compensated during overnight travel; and
- Other methods as determined by the employer, if reasonable.

Interplay of FLSA and FMLA

The second opinion letter examines two apparently contradictory principles under the FMLA and the FLSA. The first is that under the FLSA, hourly employees generally must be paid for breaks of less than 20 minutes (unless such breaks are predominantly for the benefit of the employee rather than the employer). The second principle is that under the FMLA, employees generally aren't entitled to compensation for absences—even partial-day absences—that are due to an FMLA-designated condition.

The facts were as follows: Several employees were approved for FMLA leave in the form of one 15-minute break every hour. As a result, in any given eight-hour shift, the employees actually worked only six hours.

The WHD concluded that in this situation, the breaks weren't predominantly for the benefit of the employer because they were necessitated by the employees' serious health conditions. On the other hand, if the employer offered paid breaks to other employees, the employees who took breaks under the FMLA would need to be compensated the same as the other employees for that many breaks per day.

While the opinion letter didn't address this, if you require employees to take paid leave concurrently with FMLA leave, you should pay an employee's short FMLA-related breaks out of any available PTO allotment.

Bottom line

It's nice to see the WHD publishing opinion letters at what seems to be a good pace after receiving very little guidance of this nature under the Obama administration. Informal guidance such as opinion letters can provide valuable insight into the WHD's perspective on a variety of topics that aren't directly answered by the regulations. The full text of the new

opinion letters can be found at https://www.dol.gov/whd/opinion/flsa.htm. ✤

WAGES

Congress pins down tip-pooling requirements

When Congress passed another spending bill in March 2018, few people were expecting it to resolve a somewhat obscure and highly technical dispute over how employers allocate tips among their workers. Nevertheless, that's exactly what the law does, and the result is much-needed clarity on the topic. Let's take a closer look at tip pools, their history, and what the new law accomplishes.

Some background

Under the Fair Labor Standards Act (FLSA), employers are allowed to count a portion of an employee's tips as wages to satisfy minimum wage requirements. More specifically, although the federal minimum wage is $7.25 an hour, employers can pay tipped workers an hourly rate as low as $2.13 per hour if the workers' tips bring their pay up to at least the full minimum wage. This is called a "tip credit."

It has long been accepted that employers using the tip credit could create a "tip pool" through which all tips are collected and then redistributed evenly among tipped workers who are paid the $2.13 minimum wage (and no one else).

The bigger question over the years has been the proper distribution of tip-pool proceeds when an employer pays tipped workers the full minimum wage and therefore doesn't need to use the tip credit. Courts disagreed on whether such employers could distribute the tip pool among all employees, even those who didn't customarily receive tips (such as kitchen and maintenance staff). In 2011, the U.S. Department of Labor's (DOL) Wage and Hour Division (WHD) issued regulations that said no, they couldn't. Those regulations were challenged, and some courts said they were invalid.

In December 2017, the DOL started the process of undoing the 2011 regulations, proposing new rules that would have allowed employers to distribute a tip pool not only to tipped workers but also to nontipped ones. For a relatively obscure issue, this proposal received a surprising amount of negative press coverage. Some argued that it would allow a company's owners to distribute the tip pool to employees making far more than the minimum wage—or even keep the pooled tips for themselves. It appears the new tip-pool provision was included in the spending bill at least partially in response to the negative press coverage.

What the law provides

The new provision:

- Allows employers to distribute money from tip pools to both tipped and nontipped employees as long as all employees are paid at least the full minimum wage of $7.25 per hour (not the tipped minimum wage of $2.13);
- Prohibits employers from distributing any part of the tip pool to owners, managers, or supervisors; and
- Requires employers that pay the tipped minimum wage to distribute the tip pool only to employees who contribute to the pool, just like under the 2011 regulations.

Finally, remember that there is no requirement to use a tip pool at all. You could just allow all employees to keep the tips they individually receive, as long as their compensation after tips is at least $7.25 per hour.

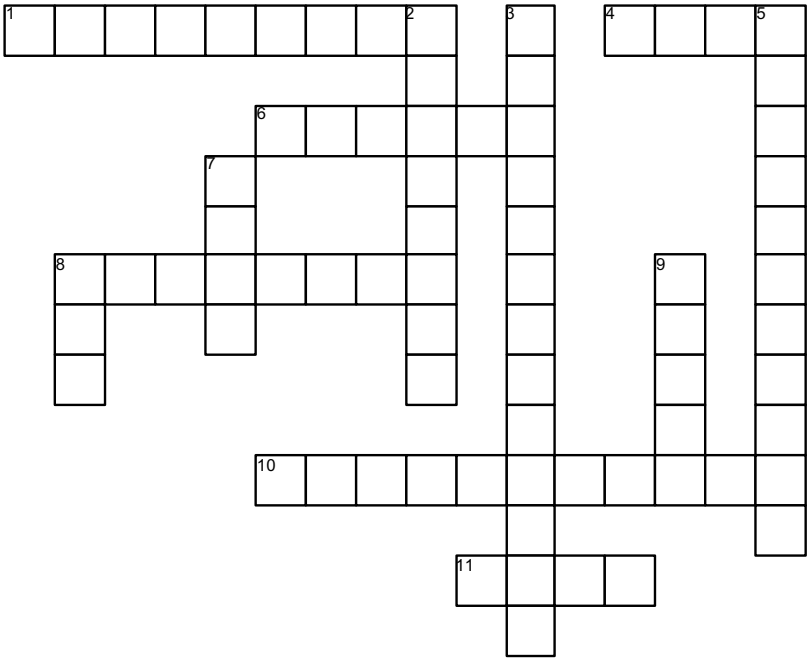
What to do next

If you have tipped employees and either currently use a tip pool or are interested in adopting or expanding one, consider these next steps:

- If you haven't already, decide whether to compensate your tipped employees using the tipped minimum wage (assuming your state law allows it) or the full minimum wage.
- If you use the tipped minimum wage, decide whether you are going to require employees to share those tips through a tip pool. If you do, make sure that:
  - The tip pool is distributed only to the employees who are contributing to it; and
  - All such employees ultimately make at least the minimum wage after tips are added in.
- If you want to implement a tip pool for tipped employees who are paid the full minimum wage:
  - Select which categories of nontipped employees will be allowed to benefit from the tip pool. You might want to consult with your attorney if you are interested in distributing tips to employees who conceivably could be considered a "manager" or "supervisor." Those terms aren't defined, and the borders between employee and supervisor can be unclear.
  - Give careful consideration to any adverse effects the change may have on your workforce morale. Employees who currently make a lot of money in tips aren't going to be happy about being forced to share them with nontipped staff. ✤

JUST FOR FUN

Mindteaser of the month



ACROSS

1 An individual whose gender identity aligns with the gender he was assigned at birth is referred to as _____. (Hint: Go to https://www.dol.gov/oasam/programs/crc/LGBTQ_DeskAidFinal.docx.)

4 _____ is the abbreviation that refers to individuals whose sexual orientation or gender identity is nontraditional.

6 Providing goods and services to people is known as _____ _____ (two words). See 3 Down.

8 _____ is the federal statute that governs claims of discrimination based on sex.

10 Employers have an obligation to promptly _____ employees' claims of harassment or discrimination.

11 Employees must be paid for travel time on weekends that occurs during their regular _____ hours.

DOWN

2 A Colorado baker objected to baking a wedding cake for a same-sex couple because it violated his free exercise of _____.

3 See 6 Across.

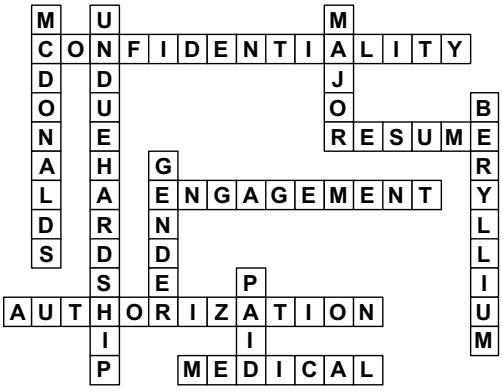
5 An individual whose gender identity does not correspond with her birth sex is referred to as _____.

7 A little-known tax credit may take the bite out of providing _____ leave to employees.

8 Under federal and North Dakota law, some employers may pay servers less than minimum wage because of a statutory _____ credit.

9 _____ is the abbreviation for our statute covering discrimination.

Solution for May's puzzle



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