

Law Bulletin from TERAOKA & PARTNERS LLP



Hi Everyone:

We bring you Spring greetings for 2021! As we begin this new season, we are starting to open up! The vaccinations have helped immensely to restore confidence that we can get back to normal. I have been regularly coming into the office at the Embarcadero Centers in the Financial District of San Francisco, and I can sense that change is coming.

In our law practice, our client energy is changing. Of course, we have continued to be busy with business and corporate compliance matters as well as employment issues. In addition, businesses are opening up. Corporate international immigration is starting to return under loosening federal restraints that will allow for more flow in intercompany management transfers with US trading partners. In addition, new clients are in start-up mode. There is a significant uptick in new business entity formations, new LLC's and new C-corporations for business deals and ideas. We are also involved in real estate acquisitions and M&A inquiries are stirring. So, we are seeing local and international business activities that are consistent with what some leading American economists have predicted -- a 6%+ GDP growth for the US by year's end.

We are certainly counting our blessings here and are thankful for the opportunity to work with our different clients returning to a sense of being "normal." Digital video communication technology has proven itself. Like it or not, it is here to stay. Most important it has provided us with another means to stay in touch with many of you. Of course, nothing beats seeing you in person and having coffee or a drink face to face. And each of us here looks forward to being with you in person soon.

During Covid, like many of you, we have kept ourselves busy in different and creative ways. In this edition, we are sharing with you what many of our team members did through this last Winter. We hope you enjoy the photos that illustrate how we created magic moments during Covid.

Best regards.

Steve Teraoka



STATEMENT OF INFORMATION PENALTY

In order to remain in good standing, all California corporations are required to file a Statement of Information with the Secretary of State on an annual basis. The due date for this filing is the month of registration/incorporation and it can be filed any time during the six-month period preceding that date. Failure to file is subject to a penalty of \$250. This penalty may automatically be charged for failure to file. Even if you intend to close your corporation in the near future, it is important to follow corporate formalities and ensure these annual filings are done on time. Remember, a corporation seeking to dissolve is required to file all delinquent tax returns and pay all tax balances, including any penalties, fees, and interest. A \$250 penalty could show up on a Franchise Tax Board statement that must be resolved before a corporation is permitted to properly dissolve. - end

PFAS

Per- and polyfluoroalkyl substances, commonly known as PFAS, are a group of man-made chemicals that are gaining attention in recent years.

On September 30, 2020, the Governor of California signed the Toxic Free Cosmetics Act which will prohibit a “person or entity from manufacturing, selling, delivering, holding, or offering for sale, in commerce any cosmetic product that contains any of several specific intentionally added ingredients.” The statute prohibits 24 ingredients which includes a list of PFAS and their salts. This ban going into effect in January 2025, giving businesses some time to comply. These chemicals are already prohibited in the EU but this legislation is the first domestic level ban of these toxic ingredients in beauty and personal care products.

While this is a new law, California has had two PFAS chemicals, PFOA and PFOS, on its Prop 65 hazardous chemicals list since 2017. This means any products that could expose customers to these chemicals must have compliant warning labels when offered for sale to customers in California.

Other states have also acted to curb the negative effects of PFAS by passing legislation intended to regulate these chemicals. PFAS continues to garner public attention and further legislation is expected nationwide. - end

MAINTAINING VALID STATUS AND TRAVEL RESTRICTIONS

With the COVID-19 pandemic, many continue to shelter in place and have not traveled. Individuals who are in the U.S. holding a valid visa should be careful to not allow their valid status to lapse. In many situations it can be confusing with a number of expiration dates to keep in mind including a visa expiration date, a petition expiration date and a I-94 date. Visa holders should make sure to check all these dates to avoid inadvertently overstaying or failing to extend their status. For instance, E-2 visa holders who may have a five-year visa will need to make sure their I-94 does not expire even if their visa remains valid. Individuals seeking to extend their status with the submission of a petition to the USCIS will need to plan ahead to avoid missing important filing deadlines.

Individuals planning to travel abroad, whether to renew their I-94 or apply for a new visa, should also be mindful of travel restrictions implemented by the U.S. and other foreign countries. As of January 26, 2021, air passengers entering the U.S. are required to present a negative COVID-19 test taken within three calendar days of departure or proof of recovery from the virus within the last 90 days. Airlines are required to confirm this evidence prior to boarding. There are also travel restrictions suspending and limiting entry of immigrants, nonimmigrants and noncitizens who were physically present in the following countries during the 14-day period preceding entry to the U.S.:

- China
- Iran
- European Schengen area
- United Kingdom
- Republic of Ireland
- Brazil
- South Africa

Other countries have also imposed similar restrictions. The U.S. State Department has also announced its intention to expand its “Do Not Travel” guidance to 80 percent of countries worldwide due to ongoing COVID-19 concerns. Before making any travel arrangements, individuals should be advised to carefully review these restrictions as the situation continues to evolve. – end

CAN EMPLOYERS REQUIRE EMPLOYEES TO GET VACCINATED?

The great news is that numerous amazingly effective vaccines are now being distributed throughout the United States and the system for such distribution is settling into something reliable. The next challenge is what can employers do regarding vaccines. Can employers require their workers to get a vaccine?

Under federal law, with certain exceptions explained below, the answer is “yes.” At the same time, employers must keep in mind certain basic employment issues.

The Equal Employment Opportunity Commission (EEOC) has issued guidance permitting employers to adopt a policy that requires employees to be vaccinated against COVID-19. Most state and local jurisdictions appear to be following EEOC on this issue. These guidelines generally recognize four exceptions.

First, the vaccine must be generally available to the employee population. For some industries, such as health care, all employees are likely already eligible for vaccination. For other industries, such as retail, the number of employees eligible for vaccination is currently limited. Once the vaccine is available to a company’s employees, subject to a few exceptions, the company can require vaccination.

Second, employers must allow exceptions to a mandatory vaccine policy for those individuals who cannot obtain a vaccine because of their own personal health or disability. Under the Americans with Disabilities Act (ADA), individuals with disabilities must be offered reasonable accommodations that enable them to perform the essential functions of their job. An employee may have a health condition that prohibits vaccination in this circumstance. Once an employee raises this issue, the employer must engage in the interactive process required under the ADA and California disability laws, to arrive at a reasonable accommodation. For example, if an employee cannot get the vaccine for a health-related reason, a reasonable accommodation might be excusing the employee from getting the vaccine and requiring the employee to continue to wear PPE in the workplace. Another reasonable accommodation might be to

excuse the employee from getting the vaccine and permit the employee to continue to work from home. Reasonable accommodations are determined on a case-by-case basis and there is no solution that works in every circumstance.

Third, employers must excuse those employees who have a sincerely held religious belief that prohibits them from getting the vaccine. The belief does not have to be common or part of a “recognized religion.” However, it must be sincerely held — a real religious belief — and not one developed solely to avoid the vaccine. If an employee has a sincerely held religious belief, the employer will have to provide that employee with a reasonable accommodation similar to the accommodations made available to employees with disabilities.

Fourth, if the employee is a member of a bargaining unit, any mandatory vaccine policy could trigger the duty to negotiate under the National Labor Relations Act. The terms of the collective bargaining agreement will determine whether such a policy can be unilaterally implemented or whether the employer must first bargain with the union.

Employers should consult with legal counsel to see whether there are other necessary exceptions under state and local law. - *end*

RELOCATION NEWS

Please note: Effective June 1, we are relocating within the Embarcadero Center to:
4 Embarcadero Center, Suite 1400
San Francisco, CA 94111

***** VACCINATION ALERT *****

California employers of 25 or more: SB95 now in effect revives Supplemental Paid Sick Leave at least through September 30, 2021. This leave now covers time for employees to get vaccinated.



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Photos

CREATING MAGIC MOMENTS DURING COVID



Steve and Marsha tour Filoli Gardens at Christmas.



Catherine at Strybing Arboretum



Yaeri Yamamoto and family biking along Oyster Bay Trail to San Leandro.



Teraoka staff commuting to the office



Matthew Passmore with family hiking at Yosemite National Park



Steven Garrett enjoying snow at Tahoe.

The Teraoka Team finds ways to create magic moments in spite of COVID-19.

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PACIFIC COUNSELOR NEWSLETTER

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