



California Corporate & Securities Law

New California Law To Impose A Scarlet “M” On Employers

By Keith Paul Bishop on November 1, 2011

Some California employers may soon be joining Elizabeth Pain and her more famous, albeit fictional, sister in shame, Hester Prynne. On October 9, 2011, Governor Jerry Brown signed [SB 459](#) (Corbett) into law. Among other things, this bill adds Section 226.8 to the California Labor Code to make it unlawful for any person or employer to engage in the “willful misclassification” of an individual as an independent contractor. Under the statute, “willful misclassification” means “avoiding employee status for an individual by voluntarily and knowingly misclassifying that individual as an independent contractor.” Labor Code § 226.8(i)(4).

Website Disclosure – An Emerging Regulatory Trend?

Although I’m sure that employment law attorneys will have a keen interest in this new law, I’m mentioning it today because I see SB 459 as an example of a developing regulatory trend here in California – the use of website disclosure requirements to influence business behavior. Previously, I reported on the [California Transparency in Supply Chains Act of 2010](#) which requires certain retailers and manufacturers to disclose on their websites their efforts to eradicate slavery and human trafficking from their supply chains for tangible goods offered for sale. Cal. Civ. Code § 1714.43(a). Now, SB 459 will require website disclosure if a person or employer has been found by the [Labor and Workforce Development Agency](#) or a court to have engaged in the willful misclassification of employees. Labor Code § 226.8(e).

“ON A FIELD, SABLE, THE LETTER A, GULES”

Please contact Keith Paul Bishop at Allen Matkins for more information kbishop@allenmatkins.com

<http://www.calcorporatelaw.com/>