

## **ANOTHER INSTALLMENT IN THE *GEORGE THE BARTENDER* SERIES**

For past installments of the *George the Bartender* series, please visit our web site at <http://www.kttlaw.us/memos.html>

**RE: *GEORGE THE BARTENDER AND THE POLITICALLY CORRECT LOBBY BAR OR NOTICES HERE, NOTICES THERE, NOTICES EVERYWHERE*<sup>1</sup>**

### **FROM THE LOBBY BAR AT THE HYATT:**

One of the reasons I love the Lobby Bar at the Hyatt, aside from George the Bartender's martinis and Kim, the Hyatt's breathtakingly beautiful cocktail waitress, is the decor, i.e., dimly lit and cordial.

Therefore, I was overwhelmed tonight when I walked into the Lobby Bar and saw it brightly lit with new wallpaper which had been put up since my last visit.

Taking my usual seat at the bar I noticed that George the Bartender was wearing a scowl on his face. When I asked George what was up he motioned for me to take a closer look at the new wallpaper.

This was unlike any wallpaper I had ever seen! The entire Lobby Bar had been wallpapered with custom-made signs advising employees as to their rights under the plethora of Federal and State laws that have been passed by the United States Congress and our state legislators.<sup>2</sup>

After serving me my Beefeater's martini<sup>3</sup> straight up with two olives, George explained that the "new look" for the Lobby Bar came courtesy of none other than that notorious applicant attorney, Ron Summers.

George told me that Ron represented one of the Hyatt's long-time employees in a case in which the claimed injury occurred years prior to the filing of the Application for Adjudication of Claim and that the Application was the employer's first notice of the ancient claim.

---

<sup>1</sup> For those new patrons to the Lobby Bar, George the Bartender's workers' compensation case involves an injury to his elbow, epicondylitis (tennis elbow), sustained from the repetitive serving of martinis to me. If there ever was an admitted industrial injury, this is it!

<sup>2</sup> According to the California Department of Industrial Relations website, "The [CA] Department of Industrial relations requires employers to post information related to wages, hours and working conditions in an area frequented by employees where it may be easily read during the workday. Additional posting requirements apply to some workplaces." All told there are 24 notices.

<sup>3</sup> A Beefeater's martini, straight up, is best served at 38° Fahrenheit.

To get around the statute of limitations Ron argued that the Hyatt did not post the required notices in a conspicuous place (usually the lunchroom) advising one and all as to their workers' compensation rights. The workers' compensation judge bought Ron's argument and the employer was hit with a life pension award.

George went on to indicate that the case is currently on appeal but that the Hyatt moved quickly to make sure that all of their employees were aware of their workers' compensation rights by ordering custom-made wallpaper featuring the Federal and State required notices displayed in large font.

In gazing around at the wallpaper that enveloped the Lobby Bar, I remarked to George that I thought this was a bit of an overkill. I reminded George that when he and I had shared some of his spaghetti leftovers in the Hyatt lunchroom years ago I distinctly remember that the required workers' compensation notice was posted and specifically advised employees to report their claims promptly or otherwise they would be barred by the statute of limitations.

George looked at me ruefully and told me that was the irony. The notice had been posted in a conspicuous place in the lunchroom but due to the passage of numerous Federal and State laws requiring additional notices to be posted also in conspicuous places the original workers' compensation notice was buried and/or covered up by other Federal and State notices of employee rights.

On his break George took me back to the Hyatt lunchroom and brought out the old bulletin board from the storeroom and I saw that the bulletin board was littered with the following notices required by California and Federal law: "Discrimination and Harassment in Employment are Prohibited by Law"; "Notice as to California's Minimum Wage"; "Notice as to the Federal Minimum Wage"; "Notice as to Family and Medical Leave"; "Notice as to the Employee Polygraph Protection Act"; "Notice of the Employer's Preferred Provider Network"; just to name a few.

I thought to ask him what the bulletin board was doing in the storeroom but looking around the lunchroom I noticed that the walls had the same type of wallpaper as the bar area. It was even on the ceiling! I asked George why these notices were wallpapered on the ceiling.

George explained that Federal and/or State law required that the employer provide cots, beds and/or a couch to allow employees to rest and/or briefly nap during their mandatory breaks and this would allow employees, while in a prone position on their back, to view notices advising them as to their mandatory rights under the law. With a certain touch of dry humor, George added that he had convinced his employer that stage lighting wasn't necessary to highlight the fact that the Hyatt was obeying the law.

When we were back at the bar area I contemplated all the new changes to the décor of my precious safe haven and I decided to utter the only sane words I could think of: Make mine a double, George.

**DISCLAIMER:**

All the above characters at the Lobby Bar aside from George, Kim and I are fictional, as is the story and new bar decor (thank goodness) - products of my overwrought imagination. I admit that the above apparent hypothetical is completely absurd. On the other hand, isn't that where we are heading?

There is a Court of Appeal decision regarding this very issue though - *Delores Pugh v. Workers' Comp. Appeals Bd. & County of Los Angeles*, 2008 Cal. App. Unpub. LEXIS 8294 (Cal. App. 2d Dist. Nov. 3, 2008). In this case the applicant's attorney argued that the statute of limitations should not apply as the employer failed to properly post the appropriate notice notifying the applicant of her workers' compensation rights.

I urge everyone to go into their lunchroom or other designated room to see if the myriad of required notices are posted on top of one another.

Make mine a double, George.<sup>4</sup>

---

<sup>4</sup> This *George the Bartender* episode was actually circulated back in 2008 but I thought it was worthwhile to send it around again in our new format. Besides, we have new mandatory notices that we must post in a conspicuous place.