



**Stowe Associates**  
Employee Benefits and HR Compliance

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## **February 2010**

During this current economic downturn and resulting budget cuts many employers are having difficulty funding all of the human resource functions of their business. **Stowe Associates** provides many compliance assistance services at **no cost**. We can help you. One of our highly trained representatives will be glad to discuss how your company can stretch its budget dollars by taking advantage of these services. To learn more, please contact Alison Smith at (770) 451-6222 ext. 2630 or [asmith@stoweassociates.com](mailto:asmith@stoweassociates.com).

### **Children's Health Insurance Program Reauthorization Act (CHIPRA)**

On February 4, 2009 President Obama signed the Children's Health Insurance Program Reauthorization Act of 2009 (CHIPRA). CHIPRA includes a requirement that the Departments of Labor and Health and Human Services develop a model notice for employers to use to inform employees of potential opportunities currently available in the State in which the employee currently resides for group health plan premium assistance under Medicaid and the Children's Health Insurance Program.

For Purposes of the Employer CHIP Notice requirement, an employer providing benefits (directly or through insurance, reimbursement, or otherwise) for medical care in a State is considered to maintain a group health plan in that State. If that State provides medical assistance under a State Medicaid plan, or child assistance under a State child health plan, in the form of premium assistance for the purchase of group health plan coverage, the employer is required to provide the Employer CHIP Notice.

Employers are required to provide these notices by the date that is the later of the first day of the first plan year after February 4, 2010 or May 1, 2010. For employers whose next plan year begins on or after May 1, 2010, the Employer CHIP notice must be provided by the first day of the next plan year.

For complete information the model Employer CHIP notice is available in modifiable, electronic form on the Department's Web site: <http://www.dol.gov/ebsa>

### **Outback Steakhouse to Pay \$19 Million for Sex Bias against Women in 'Glass Ceiling' Suit by EEOC**

#### ***Consent Decree Includes Online Application System, Creation Of Executive HR Position***

The U.S. Equal Employment Opportunity Commission (EEOC) recently announced that Outback Steakhouse has agreed to pay \$19 million and furnish significant remedial relief to settle a major class lawsuit alleging sex discrimination against thousands of women at hundreds of its corporately-owned restaurants

According to the EEOC, Outback discriminated against its female employees with respect to the terms and conditions of employment, and denied women equal opportunities for advancement. The EEOC alleged in the lawsuit that female employees hit a glass ceiling at Outback and could not get promoted to the higher-level profit-sharing management positions in the restaurants.

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Moreover, the EEOC also alleged that women were denied favorable job assignments, particularly kitchen management experience, which was required for employees to be considered for the top management job in the restaurants.

The settlement stems from a lawsuit filed by the EEOC in September 2006 under Title VII of the Civil Rights Act in U.S. District Court for the District of Colorado. In addition to the monetary relief, the settlement, contained in a four-year consent decree signed by Federal Court Judge Christine M. Arguello, requires that:

- ◆ Outback institute an online application system for employees interested in managerial and other supervisory positions;
- ◆ Employ a human resource executive in the newly created position of Vice President of People;
- ◆ Employ an outside consultant for at least two years who will determine compliance with the terms of the decree and analyze data from the online application system to determine whether women are being provided equal opportunities for promotion; and
- ◆ Report every six months to the EEOC on carrying out the terms of the decree;

The \$19 million in monetary relief contained in the settlement will be administered through a claims process in which an administrator will send letters to all female workers employed at corporately-owned Outback restaurants from 2002 to the present who have at least three years of tenure.

### **US Department of Labor's OSHA Fines Printing Company Nearly \$ 160,000 for Workplace Safety and Health Hazards**

The U.S. Department of Labor's Occupational Safety and Health Administration (OSHA) has cited Chapman Printing Co. for workplace safety and health violations. Proposed penalties total \$158,400.

OSHA initiated its inspection on June 18 in response to a formal complaint. As a result of the investigation, the company has been issued citations for six willful violations, with a penalty of \$126,000; eight serious violations, with a penalty of \$27,900; and five other-than-serious violations, with a penalty of \$4,500.

The willful violations address the company's failure to provide adequate energy control procedures and a hearing conservation program. OSHA defines a willful violation as one committed with plain indifference to, or intentional disregard for, employee safety and health.

The serious violations include a lack of machine guarding, failure to conduct a hazard assessment of the workplace to determine the need for personal protective equipment, failure to provide personal protective equipment for employees, and failure to provide and use protective equipment when working on or near energized electrical equipment. OSHA issues a serious citation when there is substantial probability that death or serious physical harm could result and the employer knew, or should have known, of the hazard.

The other-than-serious violations are due to the company's inadequate recordkeeping

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**If you have questions or need assistance, please contact [asmith@stoweassociates.com](mailto:asmith@stoweassociates.com)**

If you would like to unsubscribe to future communications please fax this completed form back to 770-936-2638 or send an e-mail to [asmith@stoweassociates.com](mailto:asmith@stoweassociates.com).

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