



News

Michael Newman Discusses Employers' Competing Obligations in Inquiring Into Job Applicants' Criminal Backgrounds

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[Michael A.S. Newman](#) a Los Angeles-based partner in the Business Litigation Practice of Hinshaw & Culbertson LLP, was quoted in the article "[Crime and Employment: Hiring a Worker With a Record](#)." The article, published on CorpCounsel.com on July 28, 2015, addresses the fine line that companies must walk "between avoiding an unsafe workplace and avoiding hiring practices that appear discriminatory—or that violate a growing body of regulations that govern how criminal history should be weighed in the application process."

Mr. Newman notes that "[t]here has been more and more pressure on employers to not simply have blanket prohibitions against hiring employees who are ex-felons or ex-convicts, and the reason is because that can very easily cause disparate impact cases involving protected classes." He explains that companies must balance competing concerns of maintaining a safe, productive work environment and not wrongfully discriminating against a person who has a criminal history. Mr. Newman adds, "[i]nsuring against the risk as much as possible is probably a prudent thing to do, since [employers are] going to have a hard time justifying just trying to close the door to people who have been convicted of crimes[.]" One possible means of protection is employment practices liability insurance (EPLI). But, says Mr. Newman, "just because [EPLI policies are] available doesn't mean all employers who want them will get them. The coverage decision is ultimately up to the insurer, which has to take into account particular risks. 'If you're a business, you can engage some sort of a broker that can hopefully deal with insurers and get you the product you need[.]'"

Mr. Newman represents companies in employment litigation, insurance coverage disputes, bad faith liability actions, insurance regulatory matters, trade secret, and contractual disputes. In his employment practice, he counsels and represents business clients (both in and out of the insurance industry) in actions alleging violation of employment laws and in matters involving alleged misappropriation of trade secrets.

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