

EAGA Business Builder

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May 10, 2022

Today's speaker was Thomas Briones—Briones Business Law Consulting



Thomas Briones, Esq. is a reputable, experienced and quite knowledgeable attorney. Tom is well respected by his peers, and over the last 30 years as a business lawyer, has been a member of many prestigious organizations, holding director or officer positions in a lot of them. Mr. Briones has a large list of business and professional accomplishments, but they aren't really on the same level as that of his most recent claim to fame...He is the husband of Dr. Stephanie Briones, M.D. Tom and Stephanie have been married for 20 years. A few years ago, Mrs. Briones decided to leave her job as Officer Manager at a well-known law consulting firm and head into her preferred career. She has now succeeded in becoming Dr. Briones and is finishing her final year in the UNM anesthesiology residency program. That law consulting firm is still doing OK without her, and these days Tom and his associates at Briones Business Law Consulting offer a wide range of legal services to make it easier for their clients to achieve success. For this morning's presentation, Tom brought Ms. Taylor Duffney, one of the attorneys at his firm, to assist. The discussion for today was the new 'Healthy Workplace Act' and Ms. Duffney is quite knowledgeable in that subject. One very important comment is that, unless you are very certain of what you are doing, GET ADVICE FROM A PROFESSIONAL for how to setup and administer your business's sick-leave program. Here are some of the pertinent points, requirements and potential pit-falls of the new law. The Act takes effect on July 1, 2022. It requires private employers in New Mexico (not governmental agencies), regardless of size, to provide paid sick-leave to employees. The sick-leave is accrued at a rate of 1 hour for every 30 hours worked. There is no waiting period. The calculation begins with the first hour worked. The requirements apply to every employee, including part-time, temporary and seasonal workers. The worked time includes overtime hours, but the sick-leave need not be accrued at a time-and-a-half rate. The employees can use up to 64 hours in a single year. Any unused hours roll over to the next year, but the employee still cannot use any more than 64 hours per year. As noted, the sick-leave hours begin to accrue with the employee's first hour paid, but the employer can define how that 'year' is defined. It can be a calendar year or a fiscal year (presuming a pro-rated calculation from the employee's actual start date). The year can 12 months beginning when with the employee's work start date, or hire date, or other reasonable and justified start date. [Don't forget the caution: GET ADVICE FROM A PROFESSIONAL when making decisions about setting up your company's program]. If an employee leaves and they have accrued, but unused, hours on the books, those hours need not be paid out, but they do have to be reinstated to the employees account if the employee returns to the company within a 12 month period. The law pertains to commissioned employees so their work hours do have to be tracked. The law does not apply to persons classified as contract laborers, but be very, very cautious about classifying a worker as "Contract labor". There are a substantial amount of obvious and not so obvious pit-falls in making that determination, so there is an even greater caution to GET ADVICE FROM A PROFESSIONAL regarding the rules. Any accrued sick-leave can be used at the employee's discretion for mental or physical illness. It is also allowed to be used for school conferences regarding a child's health and welfare and for time away from work as the result of abuse, and it can be used for the illness of a family member. The definition of 'family member' is also confusing. It includes the commonly understood groups of biological family, step-family and adopted children, however it seems to also include in-laws, children in the care of an individual on a regular basis, and persons "akin to family". Advance notice of the time off is only required when it is 'reasonable' to do so, otherwise notice is required as soon as is practicable. Documentation can only be required when the duration of time away is two or more consecutive days. The documentation can be provided up to seven days after the person returns to the job. The employee cannot be required to find someone to cover their shift while they are gone. Employers are required to display a Department of Workforce Solutions provided poster noting the new law and its provisions. The poster has to be in a place readily visible and available to the employees. An employer may use a PTO policy to comply with the law, so long as that policy includes provisions that would meet the requirements of the act. [Remember the caution: GET ADVICE FROM A PROFESSIONAL if you intend to do that]. There are 'anti-retaliation' provisions built into the law. There are non-compliance penalties of \$500 per incident and judgements can include attorney fees. It is obvious that there are a lot of different requirements, and places for potential non-compliance, so you should GET ADVICE FROM A PROFESSIONAL before developing, modifying, or publishing your policy regarding sick-leave. You can contact Tom (or Taylor) at 505-246-0120 to set up some time for them to review your questions, thoughts, plans and your intended documentation regarding compliance with the new law. Don't delay. It is not that long before July 1st and you need to have everything in place by then. And when you get that done, it would be a good idea for you to, if you are not already doing so, become a permanent client of Briones Business Law Consulting. Use one of Tom's "innovative pricing models" to affordably have his services readily available on a regular basis. The government and the general litigious attitude of the population is not going to go away anytime soon.

Leads & Business Information:

RELIC TATTOO opening at 4770 Montgomery, Suite C117

KUNG FU TEA will open at 4410 Wyoming NE, Suite H (in the Wyoming Crossing Shopping Center)

- Lionel Specter—ZEON Signs

Reciprocity:

None submitted this week

- ◆ There will not be a breakfast meeting on May 31 in honor of Memorial Day.
- ◆ The EAGA Golf Tournament will be June 10th at Santa Ana Golf Club. Starting time is 1:00pm. Cost is \$20 for members and \$85 for guests. (The fees will be billed to your EAGA account. Don't bring payment to the event). The committee is also soliciting hole sponsors at \$100 each. Signup sheets for members, guests and hole sponsors will be available at breakfast for the next couple of weeks. Contact Jerry Becker (jerry@steamaticnm.com) if you would like more information.
- ◆ Planning for the Summer Bash has begun. It is always a very fun event. If you are interested in being a part of the Bash Committee, please contact Pat Maloy [pat@maloystorage.com or 505-263-3837] as soon as possible.
- ◆ WE NEED SPEAKERS! All meetings in June are open. Actually all meetings in July are open, too. Please contact Mario if you can take one of the days. It would be greatly appreciated. Mario's contact information is in the box at the bottom of this page.
- ◆ At our June 14 meeting we will be electing two new members to the Board of Directors. If you are interested in having your name on the ballot, please contact Raul Rodriguez [info@thekingsofwrap.com or 505-892-1983]

Badge Board Greeters

May 17 th	Ben Hoffman—Kinney Brick Company
May 24 th	Paul Losey—Covenant Schools of America
May 31 st	No meeting –Memorial Day Holiday
June 7 th	Rick Reese—Blue Ristra
June 14 th	Rich Rosley—A-TECH Security
June 21 st	Chuck Osborn—Steamatic of Albuquerque & Santa Fe
June 28 th	John Woods—PHOCUS Real Estate
July 5 th	No meeting – Fourth of July Holiday

Upcoming Speakers

May 17 th	John Rockwell w/ RXL, Inc
May 24 th	Open discussion
May 31 st	No meeting –Memorial Day Holiday
June 7 th	
June 14 th	
June 21 st	
June 28 th	
July 5 th	No meeting –Fourth of July Holiday

Contact information for Executive Director: Mario Hernandez

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