

PIERCE LAW GROUP LLP

Who the Independents depend on
Film • TV • New Media

Entertainment Law Circular

January 2018

PierceLawGroupLLP.com

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& settlements

We're Off to Park City, UT for Sundance & Slamdance!



A contingency from the Pierce Law Group Team will be traveling to Park City for this year's **Sundance Film Festival** and **Slamdance Film Festival** January 17 - 23.

Pierce Law Group LLP has been a proud sponsor of Slamdance Film Festival since 1998 and serves as general counsel for this once upstart, but now well-established festival which cater to indies with an attitude.

On **January 19th - 22nd**, the Pierce Law Group team will be conducting daily **Legal Workshops for Filmmakers** from **10:00am to 11:30am** in the **Altar Room** at the **Treasure Mountain Inn**. This workshop is free and open to all, with free hot cocoa and cookies for those who stop by.

SUPER LAWYER YET AGAIN!

For the 4th year in a row, our Managing Partner David Albert Pierce has been honored by being named a California SuperLawyer by his peers as determined and bestowed by Thomson/Reuters.

Congratulations to Pierce Law Group Clients this Awards Season



Pierce Law Group Client LionsGate's film "Wonder" was nominated for 2 Critics Choice Awards (Best Adapted Screenplay, Best Makeup), and has received 3 Nominations from the Makeup & Hairstylists Guild.

The film is one of the 7 finalists competing for the Oscar for Best Makeup & Hairstyling.



PLG Client Bold Films "Stronger" was nominated for a Critics Choice Award for Best Actor, Jake Gyllenhaal.

This year Pierce Law Group LLP will also be co-sponsoring a party on Main Street in conjunction with MovieMaker Magazine.

If you will be in Park City and would like to meet up with Pierce Law Group LLP during your travels, please contact:
Will Mavity
dpassist1@piercellp.com

Please tell us if you will be in town, so we can add you to our guest lists!

RADICAL NEW EMPLOYMENT LAWS FOR CALIFORNIA: *THE TIMES, THEY ARE A CHANGING!!*

By David Albert Pierce, Esq.

Below is a brief overview of the 2018 changes to California law, with an emphasis on those affecting the entertainment industry and other creative entrepreneurs and businesses.

Salary History Inquiries Prohibited - Assembly Bill 168

California now renders it unlawful to ask a job applicant about his/her salary history. The law covers both written and oral requests, whether through the employer or an agent, as well as both compensation and benefits, I.E. whether the applicant had health insurance at a prior job. It also renders it unlawful to rely on salary history in deciding whether, or at what salary, to make a job offer to an applicant. Furthermore, all California employers are required to provide the pay scale for a position to an applicant, upon reasonable request.

Note that the law still permits an applicant to voluntarily disclose their salary history if they wish and without prompting. If an applicant does voluntarily disclose salary history, then an employer may rely on it in deciding what salary to offer that applicant. Also note that the law prohibits an employer from justifying differences in the salary it offers a new employee (from others in comparable positions) based solely upon what the employee was paid by a prior employer.

The thrust behind this law is part of the state's continuing effort to narrow the harm of gender pay gaps that are carried forward when female and other vulnerable applicant groups are forced to give their past "pay quote." However, the law applies to everyone and the purported remedy goes far beyond the harm it seeks to cure. Past pay rates have traditionally been an important means by which small employers can stay competitive and render appropriate payment decisions when access to data about such



PLG Client "Step" won the Critics Choice Documentary Award for Best Song "Jump."

Upcoming Seminars & Speaking Engagements

Pierce Law Group LLP's newest partner Joshua Edwards will be conducting daily legal clinics at Slamdance Film Festival in Park City, Utah from January 19th - January 22nd each day at 10:00. The clinic takes place at Treasure Mountain Inn.

On February 6th, David Albert Pierce will once again be teaching the undergraduate course entitled "Media Law & Ethics" for Elon University's Semester In L.A. program. This 10 week course explores cutting edge issues involving the 1st Amendment, news reporting and politics.

On February 21, David Albert Pierce will chair the Beverly Hills Bar Association's Annual Film Finance Panel held at Lawry's Prime Rib. The event will run from 12-2 PM. The all-star lineup of speakers includes Liz Polk (Netflix Business Affairs), David Acosta (City National Bank), Bianca Goodloe, Esq., and Mike Kolko (President of Tax Incentives Division, Great Roads Capital,

decisions are not readily available to them. Thus, this is a radical departure from how many employers conduct hiring.

All Pierce Law Group clients are encouraged to contact us so we can provide you with revised Employment Applications to comply with this new law.

It will also be interesting to see how the entertainment industry's "established quote system" for paying actors based on past pay for past performances will be effected by this new law.

Criminal History Inquiries Prohibited - Assembly Bill 1008

This law applies the "ban the box" measure (which government agencies have been subject to in regard to their hiring since 2013) to private employers in California with 5 or more employees.

Under the new law, before a job offer is made, employers cannot ask on the employment application (or any other pre-offer inquiry) any questions about an applicant's conviction history. Rather employers can only inquire and consider the applicant's conviction history AFTER a conditional offer of employment is made. Once a conditional offer is made, employers can only ask about actual convictions and not arrests which failed to lead to convictions, or convictions that have been sealed, dismissed, expunged or otherwise erased by law or which were subject to pre- or post-trial diversion programs.

After an offer is made, the offer may be revoked only after the employer makes an "individualized assessment" of the applicant's conviction history demonstrating a direct and adverse relationship with the specific duties of the job which in turn justify denying the applicant the position. The employer is required to consider all of the following factors in making this assessment: The nature and gravity of the offense or conduct; the time that has passed since the offense or conduct and completion of the sentence; and the nature of the job held or sought.

The employer may, but does not have to, put this assessment in writing. The employer must then notify the applicant in writing of its decision to revoke the offer based on the disqualifying conviction and provide a copy of the conviction history report. The applicant then has certain right to respond within a 5 day deadline challenging the decision or providing more accurate information missing from the criminal history report, and the applicant has an additional 5 business days to actually obtain evidence demonstrating the disputed accuracy of the report.

Once again this law is a radical departure from fundamental hiring procedures. Contact Pierce Law Group LLP to ensure your 2018 employment applications are fully up-to-date and the best method

Inc.) You can register for this event on the BHBA [website.](#)

News of Our Talented Staff

David's Assistant, **Will Mavity** Co-Hosts a Podcast entitled "TheNextBestPicture Podcast."

The Podcast focuses on the film world with an emphasis on Oscar season. Recent guests include *The Big Sick's* Kumail Nanjiani, *The Shape of Water's* Composer Alexandre Desplat, *The Florida Project's* Writer/Producer Chris Bergoch, *Blade Runner 2049's* Set Decorator Alessandra Querzola, and *Battle of the Sexes'* Composer, **Nicholas Britell.**

Will also provides written content for the site, including detailed analyses of Awards Season.

The Podcast has been featured in *Entertainment Weekly* and Will's film coverage was recently mentioned by *Variety's* Kris Tapley.

Listen to the Podcast and more [here.](#)

Pierce Law Group LLP is proud to support the following charities and organizations:

for implementing these new requirements.

New Parent Leave Act ("NPLA") - Senate Bill 63

This measure expands the "baby bonding" leave under the California Family Rights Act ("CFRA") which traditionally applied to employers with 50 or more employees to those employers with at least 20 employees.

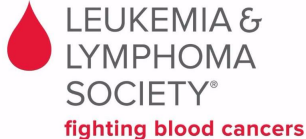
Employers will be required to grant up to 12 weeks of unpaid parental leave for an employee to bond with a new child within one year of the child's birth, adoption, or foster care placement.

An employee is eligible if s/he has: More than 12 months of service with the employer and worked at least 1,250 hours of service with the employer during the previous 12-month period, and, works at a worksite with at least 20 employees within 75 miles.

In addition all of the rules that apply to employers with over 50 employees under the other provisions of the CFRA will continue to equally apply to the "baby bonding" rule for employers with 20 or more employees. For example: the employee may use accrued vacation, sick or other paid or unpaid time off; the employer must guarantee the same or similar position upon the employee's return; an employee may take leave under both this section and the pregnancy disability leave laws, if that employee is otherwise qualified for that leave; the employer must maintain and pay for the employee's group health plan coverage during the leave. Also, if the employer employs both parents, and they both qualify for parental leave, the employer is not required to grant more than twelve weeks' total leave. The employer is also permitted, but not required, to grant simultaneous leave to both parents.

Pierce Law Group LLP encourages all clients with less than 50 employees to contact our firm to discuss needed changes to leave policies and Employee Handbooks to ensure compliance with this new law.

In addition, a hodgepodge of other employment laws have become effective which will require Employee Handbooks and Company policy statements to be revised. For example: Senate Bill 225 adds new posting requirements for Human Trafficking Workplace Posters. In addition, Senate Bill 396, provides Workplace Protections for Gender Identity, Expression and Sexual Orientation. This measure requires employers to updated workplace posters (and handbooks) to include information relating to the illegality of sexual harassment as applied to transgender identity/sexual orientation issues. The new language must include among the prohibited types of harassment, "gender identity, gender expression, and sexual orientation," harassment. In addition, mandatory harassment training for employees must now also include practical examples of transgender issues and



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be presented by trainers with knowledge and expertise in those areas.

Pierce Law Group LLP also reminds all employers that the current California Fair Employment and Housing Act ("FEHA") requires employers with 50 or more employees to provide at least two hours of prescribed training and education regarding sexual harassment to all supervisory employees within 6 months of taking a supervisory position and once every two years thereafter.

CAL/OSHA and Other Changes

A new law has been adopted in regard to the filing of yearly CAL/OSHA Form 300A Safety Logs/Safety Data Sheets each year with exceptions for "low risk" office occupations with 10 or fewer employees.

Note that entertainment productions fall into an inherently dangerous class of business. Thus, all production companies will be subject to this new rule. Failure to comply with these filing requirements shall result in fines starting at \$800, effective December 2017. While low risk office occupations are exempt, the law will come into play and reports must be filed if there is a "serious illness, injury or death" occurring in the workplace.

For questions about new CAL/OSHA requirements and compliant Safety Manuals and forms, contact Pierce Law Group LLP.

MINIMUM WAGE REMINDER!

Don't forget that the minimum wage is rising in California again. Beginning January 1, 2018, the minimum wage increased statewide, as well as in at least 12 cities throughout California.

For employers of **25 or fewer employees**, the Minimum Wage rate is now **\$10.50/hr**. For employers of **26 or more employees**, the Minimum Wage rate is now **\$11/hr**.

More increases take effect on July 1st for another 16 cities and counties, including the city of Los Angeles. For both L.A. city and county, the minimum wage for employers of 25 or fewer persons is increasing from \$10.50/hr to \$12/hr. For employers of 26 or more persons, the rate is increasing from \$12/hr to \$13.25/hr.

Pierce Law Group LLP is an industry leader in providing management-side employment law advice to the entertainment industry and creative professionals.

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 Forward to a Friend

About Pierce Law Group LLP

Pierce Law Group LLP is a full service, boutique entertainment law firm that provides both transactional and litigation legal services. Our practice areas include entertainment law, intellectual property (copyright, trademarks, right of publicity), film finance, securities law, production counsel, and labor & employment issues affecting the entertainment industry, with an emphasis on film, television, and new media. We represent production companies and other creative businesses as well as artists including producers, actors, writers, directors, comedians, and other entrepreneurs. Our client list includes both Academy Award and Emmy Award winners. We utilize an academic and analytic legal approach to accomplish creative solutions to our clients' goals.

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