

Transcript

November 20, 2024, 6:05PM

□ **Monsarrat, Alexei** started transcription

MA **Monsarrat, Alexei** 0:03

To our really second training in the labor area of the B program.

We had hosted a workshop earlier this year and at the end of June you can find the information about that on our website, including video and other presentations that were given at the time.

Today's session will be with the Vermont Department of Labor.

I'm happy to introduce Robert. Deborah, who is the general manager.

So for the Vermont Department of Labor, he is going to walk through a presentation on the broad outlines of Vermont's rules around.

A range of Labor issues, and then we'll have some time for questions at the end.

And with that, I would turn it over to you, Robert.

DR **Depper, Robert** 1:00

Thank you very much, Alexie.

So thank you everybody for being here.

I will share my screen and I've got a little PowerPoint that I'll go through.

Obviously you can wait till the end to have questions.

I've also got the chat pulled up if anyone wants to type in questions as we go, that's fine as well as you'll see from the slide show, it's I can go into depth in any particular thing you may want to usually, but this is relatively high level so.

If I'm going too fast, let me know if I'm going too slow.

Let me know and otherwise I will just share my screen and start going.

Let's see.

See if that works.

Alright. Can everybody see my screen?

Alexi, are you able to see that?

OK.

So again, my name is Robert Tepper.

I'm the general counsel of Vermont Department of Labor, and for those of you that

don't know, general counsel typically is a kind of a higher level attorney position. Working in ideally executive counseling and doing things like this, trainings and public outreach.

So today I'll be talking about a few things. The first thing we're going to talk about is the difference between an employee and an independent contractor. As the laws in Vermont constructed, at least with regard to the areas that we will be talking about within the department we.

Be talking about unemployment insurance, workers compensation and then the wage and hour program, and we'll just go ahead and start with the employee versus independent contractor.

So we get this a lot.

There's a lot of confusion about what makes.

Versus an independent contractor. I know a lot, particularly in construction.

There is an impulse.

It's an understandable impulse that, particularly with the sometimes itinerant nature of the employees, sometimes you have people that specialize in one thing and kind of bounce around to different sites.

It's pretty understandable that there would be some confusion. Vermont has, as a general proposition, a fairly.

What I would call conservative construction of an employee versus an independent contractor, we use what we call the ABC test. Y'all may be familiar with this so.

The.

In Vermont is that if someone is working for you or working for a company, they are an employee, right?

And which means you gotta pay unemployment insurance on them means you gotta pay workers compensation insurance on them.

You gotta have a workers compensation policy means you have to abide by minimum wage or prevailing wage depending on on the structure of your your work.

And in order for someone to be an independent contractor, they have to meet all the standards of, as I said, what we call the ABC test.

So the first part is that.

An individual has been or will continue to be free from control or direction in the performance of any services under the contract of service, and it says and in fact. So what that means is you can't exercise control over this. If person A is working for person B.

Or Company B person A.

They have to be able to do their own thing, right?

And you can get into a lot of minutiae about the fact patterns, but as a general proposition.

You know, if they're showing up when they want to, doing work that they want to the way they want to do it with no control from their employer, then that would.

Would indicate in favor of an independent contractor, but understand all these different parts of the A to B and the C They are an and not an or.

So they all have to be met and as this this a part of the test we have as as examples.

An individual bids for the job right and is paid by the job and the individual completes the job with no direction, supervision or set hours.

Now Part B service is either outside the usual course of business.

Or outside the places of business of the enterprise for which the business is performed.

So not only does this person show up when they want and work the way they want, but they're doing things that the business either doesn't do regularly.

Or is working outside of the business altogether, right?

So not working at the Home Office, working out and about again kind of implying the limited supervision or the no supervision that an independent contractor would imply.

And as examples here we have, you know, again individual does work with none of the does work that none of the other employees do and for which that business is not advertised, right. And maybe the individual does all the work at their own facility.

Like maybe you hire an independent contractor as a fabricator, right?

They work when they want, they work at their own facility, that type of thing is what what is envisioned by that.

And then the last part of the test, the individual is customarily engaged and independently established trade, occupation, profession and business, right.

Maybe they haven't employed.

Their own.

Maybe they advertise their own business to the general public, and they're registered with the Secretary of State.

That's a real big one.

And the the.

Supreme Court the Vermont Supreme Court has said in as many words you know, if

an individual is employed and they have their own LLC for whatever kind of work they're doing well, that meets the test of an independent contractor, right?

So the entire thrust of this and that's not to say that the Supreme Court couldn't change their mind, given the right fact pattern, but.

The thrust of it is someone that you're hiring to do a job that you don't do. You're not gonna supervise how they do it.

Tell them when to show up.

And they're, you know, not necessarily bound to the job site. And we'll talk about this a little bit more later and how it impacts various divisions that we're talking about today. As I understand it or we're not talking about the Occupational Safety and health today.

Because that that module is separate and I understand that that many of you have already.

I've already seen that.

I if you have any questions about that, you know I'm happy to answer them, but that's not the focus today.

So as I was talking about each program within the department, each division has a little bit different construction of what?

The ABC test might be most of them. Use the ABC test with a few exceptions like for wage an hour. We're talking about wages, a medium of payment that is an ABC test, right?

Minimum wage a little bit different.

Any individual employed or permitted to work by an employee.

Right. And so you can really go down a rabbit hole with minimum wage, but that permitted to work. Language is a little bit broader than what you would think of even with the ABC test, right?

Because not only are they employees, but maybe they're just permitted to work by you, right?

So for purposes of minimum wage, that would be a broader construction. And what I mean by broader means more people.

Might be sucked into that.

That would be entitled to minimum wage and that the wage and hour program would.

Wooden force workers compensation. Again kind of.

Another construction of the ABC test, but it's an individual who has entered into the

employment of or works under contract of service or apprenticeship with an employer.

And again, there are exceptions to all these things.

But in workers compensation, again, even under a contract of service, even if they are a fully independent contractor.

Workers compensation is something you need to evaluate.

You need to talk to your attorneys about. Excuse me.

You talk to your attorneys about or your and or your accountants about to decide whether or not in that situation, even with an independent contractor, do you need to carry workers compensation coverage on it? And then finally, unemployment insurance, what we refer to as UI is really the.

Classic construction of the ABC test, right?

And that's where I see problems with employers most frequently is, you know, when they get in trouble for not filing a quarterly report or someone files.

Ones were usually when we find out someone files for unemployment, we go back and look and say, well, you know, they say I was employed at, you know, triple-A Vermont construction and we go back to triple-A Vermont construction and say, why isn't this person listed on?

Your quarterly report, they say, well, they're, they're an independent contractor. Well and then we have to go through that classic ABC test construction. And I can't tell you how many times employers have been caught.

Flat footed and you know with penalties, fines, whatever.

Because they didn't include that person as an employee, when in fact under the law they were employed.

So, well, I'll start y'all with unemployment insurance and let me let me stop here.

Does anybody have any questions?

If so, bring it out in the chat or raise your hand.

Going once, going twice, no questions.

Fantastic. All right. So going on to unemployment insurance and in all of these slides I have tried to reference these specific statutes.

So that you can hopefully, at your leisure or at your Council's leisure, can look at what I'm talking about. If you need to look it up.

So unemployment insurance is a system designed to partially replace lost income due to job loss through no fault of the employees right until they can find new employment.

Now obviously that's limited.

I think the construction is is something to effective 26 weeks or something else, whichever is is lower. Obviously during the during COVID that was extended by the federal government.

To a limited extent, the state, but that is over now and we're back to the 2626 weeks of eligibility, the process for unemployment insurance is the employee makes a claim and obviously they they leave their job, they make a claim and then that claim goes. Into what we call adjudication.

Adjudication is just one of the adjudicators, employee of the department, who looks over that claim. If they have any questions about.

The factual basis of the claim.

They will reach out to the employer.

They'll reach out to the employee.

Hey, what were the circumstances of your job loss?

What was your income? All that kind of stuff?

After the adjudication at the end of the adjudication, the claim is either approved or denied and can subsequently be appealed.

It can be appealed by the employee or the employer now if it is appealed. We have several levels of appeal. This first appeal goes before an administrative law judge, so we have three administrative law judges.

I supervise all the administrative law judges and what they do is they get the information from the adjudicator.

And then they take that information, they create the what we call the record and they send out a notice of hearing to both the employee and the employer.

Now, typically what the statute requires is that they send that notice out something like I don't something like six to seven days prior to the hearing, they try to send them out more farther. They try to get more notice than that just because we all know.

That the difficulties that we have had in regular mail.

And you know, we haven't gotten to the place where we can do that service by e-mail.

That is actually something that we're hoping to add with modernization. But right now it's all snail mail.

At least for legal notice.

So the administrative law judge will send out the notice of the hearing. That notice of

the hearing will contain information on what the hearing is about. That notice of hearing should have included in it the documentation that has been generated by the department that led to the Appro.

Or denial of the claim.

And then once they send that out, they will they it sets the hearing the hearing in July, as I said, ten odd days in the future, sometimes more, sometimes less.

And then you have the option. I say the option because it's not a Criminal Court, it's not a civil court, it's an administrative court.

So you're given the option to appear at that hearing and introduce evidence.

Make your arguments and.

You know, before the administrative law judge, sometimes people have attorneys.

More often than not, they do not.

Mostly, if someone has an attorney, it's usually the employer. Sometimes the claimant will have an attorney, but that is is fairly rare, and those attorneys are usually legal aid. Sometimes they are union attorneys.

It really depends, but it's a mostly informal process.

The statute requires that the though there are procedures and stuff for the administrative process.

The statute does require that.

It be held in such a way that it makes it most most accessible for people.

So when I say all that, just to say, if you have an employee or if you're an employee, that makes a claim and there's an appeal and you have to go 40 minutes straight of law, judge, don't be intimidated by the process, right?

It's just doesn't mean an appeal doesn't mean anyone has done anything bad, right?

It just means that someone has appealed and that we're going to engage in in a more in depth fact finding.

Once the administrative law judge has issued a decision.

Then both parties have the opportunity to appeal then to the Employment Security Board, the Employment Security Board is a quite literally a tribunal. It's made-up of three people.

Two people that are appointed by the governor, one person that represents the department, really the Commissioner right now, that is our Deputy Commissioner Dustin degree, and they hear argument from both parties about the administrative law judge's order.

They do not take new evidence.

It is a technically a what we call a denovo review, meaning they can look at the evidence again and make a different decision, but you can't introduce evidence at that stage.

The evidence is all introduced at the administrative law judge level, so after the administrative law judge, the record is what we call closed and then the Employment Security Board only can review the record and hear argument from the parties and make their decision based on that.

If someone is displeased or doesn't agree with the employment security.

They can then appeal to the Vermont Supreme Court.

Now, the Vermont Supreme Court.

Any appellate court.

I encourage people if you get into a situation where you want to appeal to the Vermont Supreme Court, I strongly encourage people to hire counsel because you know real appellate process in the circuit courts before the Supreme Court is highly technical.

I can't tell you how many attorneys over I've been practicing 17 years now.

And I began my practice in Arkansas.

Practiced in Missouri.

Obviously have practiced here. I'm licensed overseas.

I can't tell you how many attorneys I have seen get hung up in some Ticky tacky appellate process that just shuts down their entire appeal.

So it is.

It is a technical thing to do, like even down to the this is how big the font should be.

This is how many pages you should.

You should.

Provide and so I strongly encourage you if you get to that point, to hire council to do that.

Now if you you know and after the Vermont Supreme Court announces their decision, that's really the end of the road, right?

You win, you lose.

Sometimes you get a remand, meaning they send it back to one of the lower courts to make a decision on something.

But that is the global process of how unemployment insurance is determined here in Vermont.

Now NUI, obviously the employers have specific obligations, right?

You have to report your payroll and your employees quarterly.

Penalties for failure. You have to pay your UI taxes based on your experience rating and those taxes go into the UI trust, right?

So it's not like your taxes just go into a black hole, they go into a trust fund that is the entire money, theoretically for pay for unemployment benefits to be paid out.

You have to inform your employees about the program.

And you have to cooperate with the department when the department is investigating or adjudicating.

The claim and you need to provide documentation.

I really wanna emphasize this point, because nine times out of 10 when I get called by the unemployment insurance division, it is because an employer doesn't want to give us documentation for whatever reason.

Now, unemployment insurance information is confidential.

There are.

There are exceptions to that.

And the exceptions are usually well, there's a lawsuit, and a judge has to issue an order.

Or the person that is the claimant gets to see the documentation that bears upon their claim, right?

And we take a pretty narrow view of that in as much as you know the claimant is not entitled to every quarterly report and all the financial information that the employer has given us back to the beginning of time, right.

But they might be entitled to.

Other documentation that the employer has provided that bears upon their claim for benefits.

Right. And that is a that's just statutory language.

But I and where people can get hung up and when they get, you know when they are most likely to get a phone call or a letter from me is when we have asked for documentation or we're just trying to verify, trying to understand and they don't want.

To give us that type of information.

And you know, I I I never understood why really at the end of the day, why employers wouldn't give the information.

Mainly because.

If you don't provide the information in a timely fashion, the department does have

other remedies up to, including subpoena up to, including contempt and all these things that, as a practical matter, I've owned my own business before. So as a practical matter, really just increase the cost of.

Doing business and you know, obviously you have to make those decisions for yourself in consultation with Council, but that is where I see people get hung up most frequently or at least employers.

Standards for unemployment insurance. So job loss.

Right. There are some job losses that make someone eligible.

There are some job losses that make someone ineligible for unemployment insurance, right?

So if you're wait, is that termination not voluntary?

Quit. So if you voluntarily quit under UI law, you are not entitled to benefits.

But there are some exceptions right? When you are terminated, that is generally when you are entitled to.

Unemployment insurance benefit, unless you engaged in some sort of misconduct.

They say misconduct or gross misconduct.

The statute doesn't define it really as such, but there are different ineligibility times, right?

It's not usually a complete bar, though sometimes it is.

Usually there is an amount of time a week to six weeks or longer based on the circumstances of the of the termination. If it's not a voluntary quit, and as you can see here, misconduct is substantial disregard of the employer's interest.

Either wilfully.

Hopefully, or either willful or culpably negligent.

You know, meaning, and This is why I say clear employer policy on the issue is usually central to the analysis.

How much notice did they get right?

It's not to say that if you don't have a policy that there's no way someone can engage in misconduct.

There are fact patterns out there like that, but you know it is a substantial disregard and so.

You know, we have those issues come up with fair frequency, right? Some of the 11 that I think of off the top of my head is you know we the use of marijuana.

Not necessarily at the job site, but just used. Generally when you have an employer who is, you know, maybe under federal contract and federal contracts have very

specific requirements when it comes to schedule one narcotics.

Regardless of what the state is doing right and so in that particular in that particular case, what was really kind of dispositive was the fact that the employer had a very clear policy that said, hey, you know, we've got a federal contract. And if you want to keep.

Working for us. You can't test positive for this list of substances, right?

And that federal contract was so central to the employer's interest.

I mean, you know, I think it represented more than 60% of their income that, you know, even if.

Employee was not intoxicated at work when they were terminated.

There was an ineligibility time found because they had acted in substantial disregard willfully of the employer's interest, or at least cut in a way that was culpably negligent.

So there are a lot of fact patterns. There's a lot of what about this?

What about that?

And it's it's kind of a universe of facts and you find that if you're an attorney for any time period, particularly if you were a litigator, like I was for many years, there's as many types of fact patterns as there are people.

And so there's all sorts of things that could happen.

Let's see.

I want to make sure I get to voluntary quit. I think I'd.

I didn't mention it much here, so the only thing I will say about voluntary quit is that just because you voluntarily quit, that's a general bar for unemployment insurance.

Unless that voluntary quit was essentially reasonable under the circumstances, right?

And the way the way the statute puts it, the way a case law is, is, would a reasonable person having experience with this person did?

Have quit as well, right?

And when we think about that, we we think about.

You know.

The the restaurant server who has a regular schedule.

Then you know, has something happened that they have to change their schedule and the employer says OK.

No problem.

We can change your schedule and then refuses to actually change their schedule so they quit, right?

It's kind of a constructive termination analysis, though our law doesn't really characterize it like that.

Some other states around us do, but that's kind of the thrust of what we'd be looking at with a voluntary quit if to if you are still eligible. If someone's still eligible for unemployment insurance.

I'll move on to workers compensation next.

Again, workers compensation is mandatory for all employers and it is intended to provide for employees.

Speedy no fault remedy and limited determined liability for employ employers, right? This is workers compensation.

Is the deal. That's not just Vermont, but many states kind of worked out many years ago that says, well, we can either be sued and not know what we're going to pay or pay into workers compensation and have and limit our liability in that way, the benefits are.

Are defined by statute, so injured workers may be entitled to one of a number of different types of benefits. Obviously, medical care and treatment, if it's reasonable and necessary to treat the work related injury.

Lost time if they're disabled, do the work injury like I said, roughly 2/3 of the usual work wages. Permanent permanent impairment only if the injury results in a permanent impairment. And when we say permanent impairment, we're talking about American Medical Association guys. The evaluation of permanent IMP.

So it's it's a, there is a standard.

I should say, VOC rehab, if they're unable to return to suitable employment and death benefits if the evidence supports that that idea and the death arose due to a work injury.

Now a work injury is defined in the statute is an injury that arises out of and in the course of employment, it can be an injury like a new injury.

It can be an occupational disease.

It can occur instantaneously over or over time.

It can also be an aggravation of a previous non work injury.

So when they're making that, you know when the some of the I supervised 2 AI JS.

It's a similar process to UI, though they're different AI JS when they are making that determination, they're not only looking for did a new injury occur on the job, right I have.

Seen cases where someone you know, let's say had you know a a previous non work

injury from years ago.

But the nature of their work aggravated that injury and cause them issues going forward.

And they do engage in the calculation of, OK.

What part of this is the work related part?

Is it 40%?

Is it 30% and then you get into these, you know, expert testimony, different doctors or specialists saying, well, I think it's this and I think it's that.

And then you you have to make that determination.

But the key is that the injury is work related.

We start talking about the obligations and rights the employer has, the obligation to maintain workers compensation insurance.

I have to I have to emphasize this because I have seen it happen again and again and again that employers say, oh, I didn't know I had to do that or well, I have insurance and my company and my insurer told me that they would cover it. But.

Didn't, and that can get complicated for employers.

So I because that's you know, when we start issuing because we I've got, you know, a ton, several of them on my desk right now.

To review and nine times out of 10, what I see is.

An unintentional, not insured situation.

So it is very, very important to clarify with your insurers that you do in fact have workers compensation, that it is for Vermont. And if you can get documentation to that effect, because if you are covered, they shouldn't have a problem providing you the documentation. And I will.

Save you.

I promise that will save you tons of headache.

Not say heartache when the department comes calling.

You all.

Employers also have the obligation to make a first report of injury, cooperate with BDOL, and again, this is same thing with UI.

Please please please if we are asking for documentation, please give us the documentation. If you need to get an attorney counsel, talk to them, please do.

The department cannot give legal advice.

I get on to my clients all the time. I get on to my attorneys.

All the time.

Do not give legal advice.

And the reason for that is very simple.

We can tell people what the law is.

But we cannot tell you how you should interpret the law.

That is what private counsel is for, and I have been doing this for as I said, 17th year, not once I've worked in private practice. I've worked for state.

It doesn't matter which client I have been engaging with, be it a private client or a state client. Every single time. If someone walks up to an attorney and says, hey, I've got this issue, tell me what you think I should do, right?

If that attorney, they're never telling the attorney every fact that they need.

They're telling them what they want to hear, right?

They're giving them enough facts to give them what they think they want.

The only exception to that is when you're paying your own attorney and you have a vested interest in giving them all the information and they can give you they can ask the the questions that need to be asked in confidence, right?

So we won't give legal advice, but I will say this again, documentation, please cooperate with us when we're asking for documentation.

As an employer, you also have the right to get the insurers claim decision and the their investigative documents so you.

When you have workers compensation, if there is a claim, the insurer kind of takes over that investigation and that claim makes a decision on whether or not it is approved or denied, right?

They make an investigation. They make those determination. You as the employer, have the right to get that documentation from them. So you can see it either for your own personal edification or because you want to do something with it.

You have the right to get that information under state law.

Again, the employee has the right to the statutory benefits.

That we discussed earlier, including medical care, permanent impairment injuries, that kind of thing.

Now the most common injuries that we see are to the eyes, the hands and the back, probably for obvious reasons, right?

A lot of the workers compensation injuries, they're occurring in physical jobs, you know, construction.

You know anything laying, cable, any of those things that you know our body centric.

We is where we frequently see the injuries now, the best prevention for these types

of things is training and safety protocols and I cannot emphasize that enough.

We have project work safe and it's right up there.

Please write down this number. You can call and you vosh will probably talk to you about it. When they came last time or when they did this last time.

But you can call and ask for assistance in developing safe processes.

And making sure and getting an idea of whether or not the processes you have in place.

Are sufficient, right?

And it it work injuries as you see here can affect the safety record and the experience rating. And what does that mean experience rating?

Workers compensation very much like the experience rating in unemployment insurance in that as you utilize the system as an employer, right as you utilize as an employer.

Your tax rate will go up, right?

So the more workers compensation claim injuries you have.

The more your tax rate goes up, the more people that claim unemployment insurance from a particular employer.

That employer's tax rate goes up. So that is why I say, you know, it is very much the cliché announce of prevention and a pound of cure.

It is absolutely worth just from a dollars and cents standpoint, making sure your safety protocols and your training is is where it needs to be, because ultimately that will save you.

That is likely to save you money long term.

Now moving on into the wage an hour.

Wage and hour program.

Enforces.

Code with regard to the fair Labor Standards Act, which is federal and then Vermont wage law, and I say that broadly because there's all sorts of Vermont wage laws out there.

And you know the enforcement of them floats between the Vermont Department of Labor and the Attorney General's Office.

And it really depends on kind of what it is and when it happened and all that sort of stuff. Fair Labor Standards Act on the federal side is kind of a joint enforcement between the federal government, federal wage an hour and state wage an hour.

And there is not a super clear line demarcating those two.

What I have found is that practically what it frequently boils down to is the amount and level of.

Of the violation, right? If there because on the state level, I'll just tell you we do not have the people to go around and audit the world, right?

The feds do so. Sometimes you will have employers that you know if we had.

30-40 people that are all complaining about us about wage complaining to us about wage theft.

It is very possible that we would refer that to the feds because they have a greater ability to manage that type of a complaint system, right?

And the feds are much more likely to go after.

And investigate claims that are getting into the, you know, large dollar amounts also as a practical matter, when you have, you know, one or more people.

Whose claims are getting into? I would say probably above \$50,000.

Well, that's really kind of practically when you start seeing the private attorneys come in because then it becomes worth their while to really deal with that because in wage and hours we'll talk about.

There are a variety of what we call remedies, right?

Some of them are for the department, right?

We can establish penalties. We can make determinations.

We can take.

Our our findings into court.

Get them enforced. But you also have private rights of action.

So any of these employees, theoretically, that complain to either the feds or to us in the state can bring their own private rights of action.

And as I just indicated, those private right of action becomes more likely the higher the amount that that employee is saying they didn't get.

Excuse me.

So what we practically enforce at the Vermont wage an hour minimum wage.

Over time, child labour leave and I say other because there's things here and there that we will deal with.

Because of the way they the statute constructs employee, sometimes we, you know, we make misclassification findings, though they're not exactly, you know, between employer and independent contractor, though, they're not exactly the same way. The the Attorney General's office would.

Minimum wage is a real big part of what we do.

Overtime is a real big part of what we do and child labor is a big part of what we do because the, the state.

I sign these all the time. These child labor certificates that allow children to work in limited circumstances.

Overtime is another big thing because you know, we have people, you know, I mean in the labor market is labor market, people working.

They're getting paid X amount and they, you know, work more and they say, well, I work this many hours. Our employer says, well, I work.

They didn't work that many hours, and that's usually what we get into and frequently I'll just tell you this, what it really comes down to frequently.

Is who's who has documentation or which documentation is better, right?

So this kind of goes back to what I was saying with UI workers compensation. Keep your documentation.

People are clocking in.

You're keeping track of hours. Make sure you have that documentation you're required to to hold it. You're required to have it under statute.

It is absolutely critical that you have that if you want a void.

You know what you may perceive as frivolous claims of?

Lack of payment.

But documentation is what will save you every time, because I take the approach and always have is that if it's not documented, it doesn't exist right now.

There are exceptions to that. If we have someone who, you know complaints about wage theft and we go back to the the employer and they say, well, they say they've worked this many weeks and the employer says, well, I don't think they did, but the employer doesn't have.

Any documentation?

Well, if the claimant is willing to file to sign an affidavit swearing under penalty of perjury that such.

That was the case.

I mean, that's not nothing, right?

I mean, that's evidence, but it's that's the kind of analysis that we will go through at a very bare minimum.

So it's very it. You definitely need to keep your documentation that will save you a lot of time in the interim if you have questions about like well that you know this person did this, this person did it.

I again, I encourage you to hire private counsel.

It will always be cheaper at the front end.

I used to tell private clients. You can pay me now or you can pay me later.

It's usually cheaper if you pay me now, right?

And so that continues to be true in these types of situations.

Let's see. There was something else. Me and God knew what it was.

But not only God knows.

So I'll just move on and say So what all this stuff is very interesting.

But what happens if I don't comply?

Fines, obviously, penalties, interest, that sort of thing.

Private rights of action that we've already discussed and in certain situations, prohibition from employing more people.

We're talking about this just the other day internally about how some of these statutes, particularly under unemployment insurance under workers compensation, if you don't comply if and it is a last resort typically. But if you don't comply, if you don't want to pay your fine. Yeah, I see.

You all did that.

I see that.

I got that citation.

I'm not paying that fine.

I didn't do anything.

I'm not going to appeal you all. Just go hang well. The department frequently has the ability to either.

Just issue a stop work order in the case of workers compensation or.

Approach the Superior Court and say, look, we're trying to enforce this part of the law.

This employer is refusing to to comply and we would like you to issue an injunction to prohibit them from employing people in Vermont, so you know of all the potential remedies the department has that is probably the the most difficult potentially for employers.

It's also not something that we go to frivolously.

We try not to, you know, get into that.

Situation because you know it doesn't doesn't help anybody.

Generally, to stop someone from employing Vermonters, right?

That's not really something we want to do.

That said, we have to, you know, enforce the laws that the legislature provides us, and we don't really get options in that regard.

And we should, right?

Because that's not the executive's role. The executive role not to legislate the executive role is to execute what the legislature tells us needs to be done. So that is. You know my presentation.

Again, my name is Robert Deper.

I'm happy to take any questions anyone may have.

MA **Monsarrat, Alexei** 39:48

Thanks very much, Robert.

That was an excellent presentation. As a reminder for folks, these slides and some supplementary information that Robert provided are on the on the VCB BS training website.

We'll we'll add this video once it's ready to go. At this point, I'm going to stop the recording and then we can start taking questions.

□ **Monsarrat, Alexei** stopped transcription