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## The GSH

# 60-Second Memo

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## A Happy Belated Singles Week to You!

By Marcie B. Cornfield, Esq.

Instead of wishing you an early Happy Valentine's Day, I want to wish you a belated Happy Singles Week! A little known fact is that National Single and Unmarried Americans Week occurred in September 2011. According to [a \*New York Times\* article written by Tara Parker-Pope](#), about 100 million Americans - nearly half of all adults - are unmarried. Why is this important? According to Ms. Pope, "the plight of the American single person is cause for growing concern." She notes that often, single adults are overlooked by policies that favor married couples, from family-leave laws to lower insurance rates.

Ms. Pope raises an interesting point. The "single vs. married" battle has been simmering for some time. Time and time again, singles have argued that married individuals want special treatment for their life choices. Reactions to *EEOC v. Bloomberg, L.P.*, 778 F. Supp. 2d 458 (S.D.N.Y. 2011) make this point clear. In *Bloomberg*, the EEOC alleged, among other charges, that Bloomberg, the financial and media service giant founded by New York City Mayor Michael Bloomberg, systematically reduced the pay of, demoted, or intentionally excluded mothers and pregnant women from management meetings or otherwise isolated them. Chief U.S. District Judge Loretta Preska dismissed the EEOC's claims of pattern or practice discrimination, stating that the company's regular practice was to treat women who took maternity leave the same as others who took similar amounts of leave for non-pregnancy related reasons and that, legally, Bloomberg acted within the scope of what the law required. Judge Preska also commented on the EEOC's notion of the need for a "work-life balance." She wrote, in relevant part, as follows:

At bottom, the EEOC's theory of this case is about so-called "work-life balance." Absent evidence of a pattern of discriminatory conduct . . . the EEOC's pattern or practice claim does not demonstrate a policy of discrimination at Bloomberg. It amounts to a judgment that Bloomberg, as a company policy, does not provide its employee-mothers with a sufficient work-life balance. There is considerable social debate and concern about this issue. Former General Electric CEO Jack Welch stated, "There's no such thing as work-life balance. There are work-life choices, and you make them, and they have consequences." . . . But it is not the Court's role to engage in policy debates or choose the outcome it thinks is best. It is to apply the law. The law does not mandate "work-life balance." It does not require companies to ignore employees' work-family tradeoffs - and they are tradeoffs - when deciding about employee pay and promotions. It does not require that companies treat pregnant women and mothers better or more leniently than others. All of these things may be desirable, they may make business sense, and they may be "forward thinking." But they are not *required* by law. The law simply requires fair treatment of all employees. It requires holding employees to the same standards.

Not all agreed with Judge Preska's decision. Janine D'Arcy, whose ["On Parenting" blog](#) can be read on the *Washington Post*, wrote that Judge Preska had "dropped an anvil on the work-life balance scale" and had "smacked down any notion that workers might expect their employers to honor their family-life decisions."

To whose choices is Ms. D'Arcy referring? Do married individuals with children expect favorable treatment? Should being up late all night with a sick child be an excuse to get out of a deadline? What about a person who is caring for a sick friend? Should they not get the same treatment? Government policies seem to favor those who are married and who have children. For instance, the federal Family and Medical Leave Act allows individuals to take leave to care for an immediate family member (spouse, child, or parent) with a serious health condition. The Act does not permit leave for a niece, nephew or a close friend.

This is something for employers to consider in the workforce. Is there a battle waging between the married workers and the single workers that negatively impacts morale? Are company policies favoring married workers? One way to combat any sort of bias may be for your company to review its leave policies. Should your company have a sick leave policy that permits employees to have time off in the event their child or spouse is sick, you may want to think about ensuring that an unmarried employee can use leave to care for a sick friend or niece. In other words, provide a few personal days to all employees that can be used for any reason whatsoever. If funeral leave is permitted for a family member, perhaps revise the existing policy to permit funeral leave for a personal friend.

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The workforce is never going to be free from the "work-life balance" debate. As employers, the best we can hope to achieve is to embrace each employee's individuality and life choices, ensuring that each employee feels valued.

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