

IN THE KNOW

Bulletins for Benefits & HR Professionals

November 19, 2020



The Future of Workplace Law Under President-Elect Joe Biden

“As President-elect Joe Biden selects members of his Cabinet and prepares for his transition into the presidency, he and a Democratic majority in the House of Representatives may pursue a number of significant pieces of federal workplace legislation. Many of these employment law measures successfully passed the House in 2019 and 2020.” [Full Article](#)

Jackson Lewis



Enhanced Employer Record-Keeping Requirements Relating to COVID-19

“One subject that has not received a lot of attention relating to COVID-19 requirements for employers is the obligation to make and preserve certain records. Depending on what the record is, and who is making it, these mandates will require employers to maintain records for longer periods of time than under many, if not most, record-keeping policies. As a result, employers should be reviewing and updating if necessary, their record-keeping policies when it comes to employee monitoring, leaves of absence, and sick pay.”

[Full Article](#)

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Tenth Circuit: No Adverse Action Necessary to Prove a Violation of the ADA's Accommodation Requirements

“The Tenth Circuit recently held that a disabled employee was not required to show that she suffered a separate adverse employment action to establish a failure to accommodate claim under the American’s with Disabilities Act (ADA). *Exby-Stolley v. Board of County Commissioners*. Plaintiff alleged that the employer failed to accommodate her physical limitations, which stemmed from a workplace injury and which compelled her to resign.” [Full Article](#)

Jackson Lewis



OFCCP Issues Final Rule Outlining Procedures for Resolving Employment Discrimination

“On November 10, 2020, OFCCP published in the Federal Register a final rule on procedures to resolve potential employment discrimination. This rule purports to address some of these criticisms by adopting standards that are intended to “increase clarity and transparency for federal contractors, establish clear parameters for OFCCP resolution procedures, and enhance the efficient enforcement of equal employment opportunity laws.” [Full Article](#)

Little Mendelson

It's The Holiday Season – Can Employers Restrict Personal Travel?



“It’s that time of year when many folks look forward to seeing family members near and far. In the context of the pandemic, however, the CDC and many state and local officials are recommending that folks avoid travel and gatherings with those outside of the immediate household. Given the workplace impact of employees’ holiday travel – with possible infections, exposures, and quarantines – employers are wondering whether they can

prohibit employees from traveling during the holidays. And the answer, of course: It’s complicated.” [Full Article](#)

Shawe Rosenthal

Employment Spotlight: Can an Employer Vary the Terms of an Employee's Employment Agreement Without the Employee's Consent?

“In light of COVID-19, many employers have been considering ways to reduce their overhead costs. Employees’ wages often account for a large share of the employer’s expenses, consequently, employees are increasingly being asked to vary their employment terms by agreeing to take no pay leave and/or a reduction to their wages. Often these requests are premised as an alternative to redundancy. This article examines the rights of both employers and employees in a relation to a variation of the employment contract.” [Full Article](#)

Gall

State & International Compliance

CALIFORNIA



The Delay Continues – California Passes Prop 24 And Employers Must “Wait and See”

“Last week, California voters passed Proposition 24, the California Privacy Rights Act of 2020 (“CPRA”), which expands and clarifies certain rights and obligations under the California Consumer Privacy Act of 2018 (“CCPA”). Relevant to California employers, Proposition 24 extends the moratorium on certain rights and obligations related to job applicant and employee data to January 1, 2023.” [Full Article](#)

Paul Hastings

ARIZONA



Arizona Passes Initiative to Allow Recreational Marijuana Use

“Arizona 2020 voters decidedly adopted Proposition 207 – The Smart and Safe Arizona Act – which legalizes the possession and use of marijuana by adults age 21 and over for recreational or non-medicinal use. The initiative passed with roughly a 20% margin.” [Full Article](#)

Little Mendelson P.C.

COLORADO



Colorado Voters Pass the Paid Family and Medical Leave Insurance Act

“On November 3, 2020, Colorado voters passed Proposition 118, a ballot initiative establishing a paid family and medical leave program. The new law, known as the “Paid Family and Medical Leave Insurance Act,” provides for 12 weeks of paid family and medical leave funded through a payroll tax paid by employers and employees in a 50/50 split. The act is codified at C.R.S. §§ 8.13.3.401-424. The act provides an additional four weeks of leave for pregnancy or childbirth complications.”

[Full Article](#)

Ogletree Deakins

ILLINOIS



Employers Must Train Illinois Employees on Sexual Harassment Prevention by January 1, 2021

“This year, Illinois joined a growing number of states that require employers to provide comprehensive sexual harassment training. The Illinois Workplace Transparency Act (IWTA) provides that “every employer with employees working in [Illinois]” must provide sexual harassment prevention training “at least once a year to all employees.” [Full Article](#)

Lewis Rice

NEW YORK



New York Court Dismisses Amazon Workers’ COVID-19 Health and Safety Claims

“On November 2, 2020, the Eastern District of New York issued a notable decision regarding an employer’s compliance with federal and state public health law during the COVID-19 pandemic. This is not the only case of its kind during the pandemic, and we certainly don’t expect that it will be the last as employers should be prepared to defend claims that they did not follow the governing health protocols or otherwise ensure the health and safety of their employees.” [Full Article](#)

Proskauer