

IN THE KNOW

Bulletins for Benefits & HR Professionals



July 14, 2022

The Future of Hybrid Working: Full Steam Ahead or a Screeching U-turn?

“As various restrictions put in place during the global coronavirus pandemic have lifted across the world, many businesses have embraced hybrid working. However, as we look to the future, are these working arrangements of the so-called “new normal” really here to stay? We consider below whether there are already significant factors at play that could prompt many businesses to want to withdraw from hybrid working and, if so, what legal considerations this could entail.” [Full Article](#)

Seyfarth Shaw



EEOC Issues First Guidance on Algorithm-Driven Employment Decisions

“The last several years have seen algorithm-driven technologies like artificial intelligence (AI) and other algorithmic or automated decision-making systems proliferate throughout nearly every industry, from managing the supply chain to detecting and preventing fraud and helping farmers decide what crops to plant. Employment-related decisions are no exception; employers are increasingly using algorithmic decision-making systems in the hiring and evaluation of employees, with an eye to eliminating bias and discrimination in these processes.” [Full Article](#)

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EEOC Sanctions Employer for GINA Violations Relating to Collection of Employees' Family Members' COVID Test Results

“On July 6, 2022, the Equal Employment Opportunity Commission (EEOC) announced it has entered into a conciliation agreement with a Florida-based medical practice for violations of the Genetic Information Non-Discrimination Act (GINA) arising out of the practice’s collection of employees’ family members’ COVID-19 testing results.” [Full Article](#)

Proskauer Rose

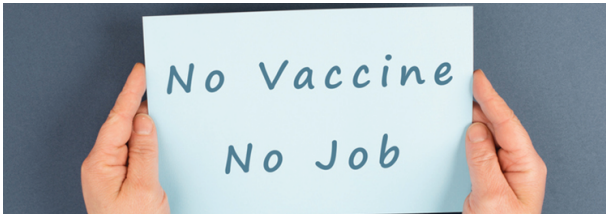


What the Supreme Court’s Recent Decisions on Guns and Prayer Mean for Private Employers

“Two decisions handed down by the Supreme Court last month held that government actions were unconstitutional. In *Kennedy v. Bremerton School District*, the Court held that a public school district’s instruction to a high school football coach that he could not pray on the field after each game violated the First Amendment. A New York State law limiting individuals from carrying concealed weapons was found, in *New York State Rifle & Pistol Ass’n v. Bruen*, to run afoul of the Second Amendment. Central to both those decisions was that they involved state action – a government body telling individuals what they could not do.” [Full Article](#)

Levy Employment Law

Loss of Job Over Religious Vax Refusal ≠ Irreparable Harm



“In *Halczenko v. Ascension Health, Inc.*, the doctor, who objected to the COVID vaccine on religious grounds, was terminated for failing to comply with the hospital’s vaccine mandate. He sought a preliminary injunction to reinstate him while his lawsuit was proceeding. In order to receive a preliminary injunction, a plaintiff must show that they will experience irreparable injury absent the injunction, among other things. The doctor argued that the termination caused him such

injury because his professional skills would deteriorate within 6 months to the point he would no longer be able to work, and that he was unable to secure another position in the interim.” [Full Article](#)

Shawe Rosenthal

Event in Review: Navigating Internal Investigations at Nonprofits

“An allegation of misconduct or illegality can have very harmful effects for an organization: it can hurt staff morale, violate an organization’s mission, and, in extreme circumstances, can threaten a nonprofit’s exempt status. During a recent luncheon program, Venable partners George Constantine, Eric Berman, and Doreen Martin, along with Jesse Raben, general counsel and COO of The Trust, discussed how nonprofits should navigate internal investigations that can arise from whistleblower complaints, government inquiries, or any other violation of the organization’s policies.”

[Full Article](#)

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State & International Compliance

CALIFORNIA



Lights, Camera . . . West Hollywood Paid Time Off Ordinance

“West Hollywood has joined the growing ranks of California cities that have their own local sick leave and/or minimum wage requirements. West Hollywood enacted an ordinance that creates new paid and unpaid time off mandates as well as minimum wage obligations and mandates the distribution of service charges. The new ordinance went into effect for most employers July 1, 2022.” [Full Article](#)

Seyfarth Shaw

NEW MEXICO



If Pain, Yes Gain — Part 101: New Mexico Paid Sick Leave Law in Effect Today; Final Rules, Model Poster and FAQs Available

“The New Mexico statewide paid sick leave law is in effect as of July 1, 2022. The state recently released a series of related materials—final rules, detailed FAQs, model posters, a policy compliance checklist, and a guide to the law.” [Full Article](#)

Seyfarth Shaw

LOUISIANA



Now I Know My CBDs — Louisiana Court Favors Employee Terminated for Failing Marijuana Test

“You can purchase CBD legally in all U.S. states, but most states still have laws making THC (the psychoactive component in marijuana) illegal, especially without a prescription. However, CBD can trigger a positive drug test. Hemp-derived CBD may contain low levels of THC that show up on a drug test. The Eastern District of Louisiana tackled this very issue in considering if the ADA protects an employee when a positive drug test may have been triggered by CBD use.” [Full Article](#)

Bradley Arant Boult Cummings

NEW JERSEY



Non-Disparagement Provisions Not Barred by NJLAD’s #MeToo Amendments, For Now

“In response to the #MeToo movement, New Jersey enacted N.J.S.A. 10:5-12.8, which amended the New Jersey Law Against Discrimination (NJLAD) to prohibit, in employment contracts or settlement agreements, any non-disclosure or confidentiality provisions that have “the purpose or effect of concealing the details relating to a claim of discrimination, retaliation, or harassment.” In *Savage v. Township of Neptune*, No. A-1415-20, the Appellate Division confronted the question of whether N.J.S.A. 10:5-12.8 also applies to non-disparagement provisions, and concluded it does not.”

[Full Article](#)

Little Mendelson

ILLINOIS



New Legal Obligations for Chicago and Illinois Employers

“As of July 1, 2022, amendments to the Chicago Human Rights Ordinance went into effect, requiring employers with at least one employee working within the city’s boundaries to update sexual harassment policies; display new posters; and augment their sexual harassment training. Employers who fail to comply could face fines of up to \$10,000 per day.”

[Full Article](#)

Benesch Friedlander Coplan & Aronoff