

# Weekly Digest

• November 4, 2022 •

Human Resources

## Continuing Flexibility: DHS Extends I-9 Rules Until July 2023

"On October 11, 2022, the Department of Homeland Security (DHS), U.S. Immigration and Customs Enforcement (ICE), announced an extension to the Form I-9 flexibilities that have been in place since March 2020. As we previously reported, in response to the COVID-19 pandemic, DHS has allowed employers with remote workforces to collect, inspect, and retain certain employees' identity and employment authorization documents remotely. This flexibility was last set to expire on October 31, 2022, but is now extended until July 31, 2023."

[Full Article](#)

*Venable*

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## New Pay Transparency Laws Change Job Postings Coast to Coast

"A growing number of cities and states are pushing for greater pay transparency in the hiring process. To add to that growing list, California and New York have both passed pay transparency laws in recent months, leaving employers to modify how they seek out new talent. However, employers should keep in mind that not all pay transparency laws are the same, and must take the proper steps to ensure they are fully complying with the laws of the states in which they are based and where their employees reside." [Full Article](#)

*Akerman*

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## Employers, It's Time to Update Your EEO Poster

"It is old news to most covered employers that they are obligated to post certain notices for their workforce. What these employers may not know, however, is that the EEOC recently updated and replaced its "EEO is the Law" poster. The "Know Your Rights: Workplace Discrimination is Illegal" poster, which covered employers must post in lieu of the old "EEO is the Law" poster, was initially released on October 19, 2022, only to be superseded by a further update on October 20, 2022." [Full Article](#)

*Little Mendelson*



## Plan Sponsors Beware When Classifying Independent Contractors for Benefit Plan Purposes

"Employers generally understand that "employee benefit plans" should only be provided to "employees" and that "independent contractors" should be excluded from benefit plan participation. While this concept is simple in principle, it is not as simple in application, since the determination of whether an individual is an independent contractor or an employee is not based on a bright-line test; rather, it is based on a facts and circumstances analysis." [Full Article](#)

*Haynes & Boone*

## A Court May Shorten the Duration of a Non-Compete Clause

"Non-compete clauses are critical for companies to ensure former employees cannot freely accept positions with competitors risking exposure of the company's valuable and sensitive confidential business information. To the extent necessary, courts can tailor the terms of a non-compete clause." [Full Article](#)

*Finnegan, Henderson, Farabow, Garrett and Dunner, LLP*



## Can Rap Music in the Workplace Create a Hostile Work Environment?

"Is the playing of obscene and misogynistic rap music in the workplace discriminatory on the basis of sex if it offends women? A former Tesla employee has asked the U.S. District Court for Nevada to answer "yes" to that question after filing suit against her former employer alleging that, among other things, the obscene and misogynistic rap music, as well as the actions and statements made by her co-workers related to that music, amounted to sexual harassment." [Full Article](#)

*Shawe Rosenthal*

# STATE & INTERNATIONAL COMPLIANCE

## CALIFORNIA



### New California Laws Impacting Employers

"In late September 2022, California Governor Gavin Newsom signed several new laws impacting California employers, which included the new California pay transparency law, which we considered separately in an October 5 client alert on the legislation. Unless otherwise specified, the laws discussed below take effect on January 1, 2023." [Full Article](#)

*Cooley*

## MARYLAND



### Maryland Expands Employers Reasonable Accommodation Obligations to Applicants with Disabilities

"Since October 1, 2022, Maryland employers are obligated to reasonably accommodate not only the disabilities of employees, but also the disabilities of applicants." [Full Article](#)

*Lerch, Early, & Brewer Chartered*

## NEW YORK



### NYC DCWP Purposes Rules to Implement New Law Governing Automated Employment Decision Tools

"On October 24, 2022, the New York City Department of Consumer and Worker Protection ("DCWP") proposed rules to implement its new law regarding automated employment decision tools ("AEDTs")." [Full Article](#)

*Hunton, Andrews & Kurth*

## CONNECTICUT



### Connecticut Expands Anti-Discrimination Protections

"Connecticut's broad anti-discrimination laws just got broader. The Connecticut Fair Employment Practices Act (CFEPA) prohibits discrimination based on many protected characteristics, such as race, age and disability. The CFEPA is broader than federal anti-discrimination laws in both coverage (it applies to more employers) and scope (it covers more categories of employees)." [Full Article](#)

*Day Pitney*

## CALIFORNIA



### Meal and Rest Break Claims Now Pose High Financial Risks to California Employers

"While perhaps overlooked in favor of other high-profile rulings (we're looking at you, Viking River Cruises), the California Supreme Court's decision in *Naranjo v. Spectrum Security Services, Inc.*, No. S258966 (Cal. May. 23, 2022) may turn out to be one of the most significant cases of the year for California employers." [Full Article](#)

*Greenberg Traurig*