

Weekly Digest

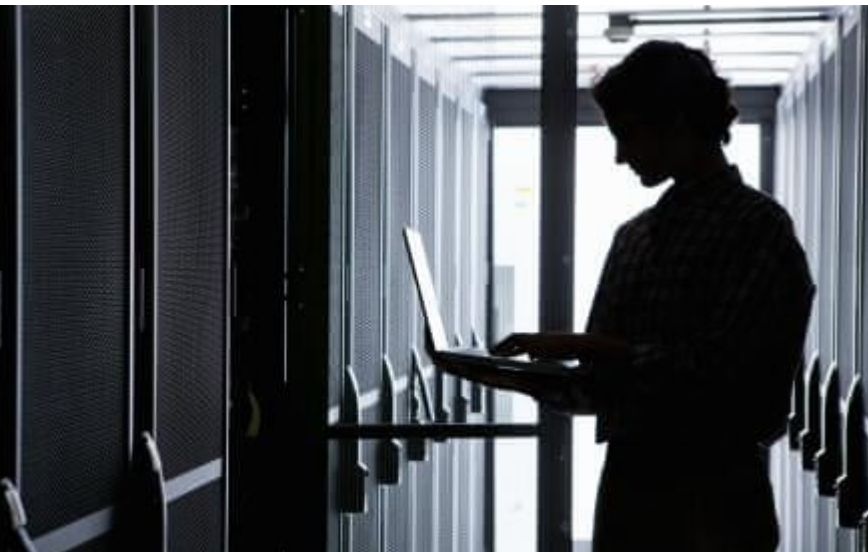
• November 18, 2022 •

Human Resources

NLRB General Counsel Proposes Crackdown on Employers Who Monitor Employees

"The National Labor Relations Board may soon be coming for employers who electronically monitor their employees. On October 31, the NLRB's General Counsel Jennifer Abruzzo, who is the chief prosecutor for the Board, gave notice that she was intent on aggressively interpreting the National Labor Relations Act to deal with what she believes are employers' use of intrusive or abusive electronic monitoring and algorithms that might interfere with employees' Section 7 rights." [Full Article](#)

Constangy, Brooks, Smith & Prophete LLP



Inconsistent Explanations Dooms Employer's Defense Against Race Discrimination Claim

"In reversing a federal trial court's decision in favor of the employer on an employee's reverse race discrimination claim, the U.S. Court of Appeals for the Seventh Circuit noted that the employer "told two incompatible stories about both how and why" it made the promotion decision at issue." [Full Article](#)

Shawe Rosenthal LLP

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How Will the Supreme Court's Review of Two Affirmative Action Cases Affect Employers?

"On October 31, 2022, the Supreme Court of the United States (SCOTUS) heard oral arguments for two controversial affirmative action cases against Harvard University and the University of North Carolina (UNC). While the legal framework for affirmative action programs and diversity, equity, & inclusion (DEI) initiatives differ across academic and employment contexts, these high-profile decisions are bound to have implications for private employers and federal contractors."

[Full Article](#)

Littler Mendelson LLP



Lessons from a Staffing Misappropriation and Non-Compete Trial

"Cases don't try very often. Doubly so in trade secret/non-compete litigation. So many of these disputes get resolved at the injunctive relief phase of the proceeding that, when one goes the distance, it is almost always worth peeking under the hood." [Full Article](#)

Seyfarth Shaw LLP

More Pay Reporting and Disclosure Obligations on the Horizon for Employers

"The pay equity landscape continues to be a priority for the federal government, states, and local jurisdictions. The recent push toward pay transparency has led to new and complex challenges for employers."

[Full Article](#)

Jones Day



Policing Politics in the Workplace – Keeping The Peace on Election Day and Beyond

"With early voting and vote by mail, methods of voting have become easier and more flexible and convenient than ever before—but policing politics in the workplace can be trickier than interpreting a hanging Chad! Here's what employers can do to ensure that a color war of red and blue does not ensue, after navigating through the patchwork of "time off" to vote and other voting leave laws."

[Full Article](#)

Akerman LLP

STATE COMPLIANCE UPDATES

CALIFORNIA

California Court of Appeal Reverses Summary Judgment in Time-Rounding Case Involving Electronic Timekeeping System



"In *Camp v. Home Depot*, a Sixth Appellate District panel recently found against an employer that—although its electronic system recorded employee work-time to the minute—rounded daily totals to the nearest quarter-hour for determining wages." [Full Article](#)

Davis Wright Tremaine LLP

OHIO

Rolling the Dice with Independent Contractors



"Let's face it –employees are expensive. Labor costs are one of the biggest costs of doing business and go beyond just wages. They also include benefits, payroll, and associated taxes." [Full Article](#)

Graydon, Head & Ritchey LLP

MISSOURI

Missouri's New Marijuana Law: What Employers Need to Know



"The uncertified results for the November 8, 2022 election indicates Missouri voters have passed Amendment 3, legalizing marijuana for personal use (effective December 8, 2022). Assuming the unofficial results will be certified, what does this mean for Missouri employers?" [Full Article](#)

Thompson Coburn LLP

DISTRICT OF COLUMBIA

D.C. Voters Approve Eliminating the Tip Credit System



"On Nov. 8, 2022, Washington, D.C., voters overwhelmingly approved "Initiative 82," which, once certified and implemented, will eliminate the tip-credit system in D.C. With this new law, D.C. joins the ranks of seven states with no tip credit: Alaska, California, Minnesota, Montana, Nevada, Oregon and Washington state." [Full Article](#)

McGuire Woods LLP

COLORADO

Colorado's Required Notice for Separating Employees—New Form Released



"In May 2022, Colorado passed a new law requiring employers to provide a notice to all separating employees alerting them that unemployment compensation benefits may be available." [Full Article](#)

Brownstein Hyatt Farber Schreck LLP