

Weekly Digest

• April 7, 2023 •

Human Resources

Workplace Investigations: Anticipate Cognitive Overload

"Different perspectives and emotional shifts often arise when conducting workplace investigations. Our goal as investigators is to gather information, in whatever manner and quantity it is presented, and it is not uncommon to experience cognitive overload." [Full Article](#)

Levy Employment Law LLC



Dear Littler: How Do We Handle Drug or Alcohol Impairment in the Workplace?

"We are a manufacturing company with facilities in multiple states. We have had a number of incidents when supervisors have suspected an employee was impaired while working due to alcohol or drug use. We are particularly concerned about employees potentially endangering themselves or others if they are using our equipment while impaired, but we are unsure what to do in these circumstances. Can you help?" [Full Article](#)

Littler Mendelson

In This Digest

PAGE 1

Workplace Investigations: Anticipate Cognitive Overload

By, Levy Employment Law LLC

Dear Littler: How Do We Handle Drug or Alcohol Impairment in the Workplace?

By, Littler Mendelson

PAGE 2

Bystander Responsibility in the Era of #MeToo: Lessons Learned From Apple TV's The Morning Show

By, Troutman Pepper

Email Layoffs from the Employment Litigator's Lens

By, Mintz

2023 Compensation Check-Up: Four Questions to Ask About Your Compensation Practices

By, Levenfeld Pearlstein LLC

Cal/OSHA Turns Up the Heat on Employers

By, Seyfarth

PAGE 3

State Compliance Updates

Bystander Responsibility in the Era of #MeToo: Lessons Learned From Apple TV's The Morning Show

"Partners Tracey Diamond and Evan Gibbs sit down with Megan Bigelow, assistant general counsel at Sonesta Hotels, to talk about the popular Apple TV series The Morning Show and harassment in the workplace." [Full Article](#)

Troutman Pepper



Email Layoffs from the Employment Litigator's Lens

"In the remote world, more than ever, employers must consider how to lay off employees and the associated legal risks." [Full Article](#)

Mintz

2023 Compensation Check-Up: Four Questions to Ask About Your Compensation Practices

"Compensation is always a top-of-mind issue for employers, but on the heels of the "Great Resignation," and amidst ongoing labor shortages, economic uncertainties, and evolving legal requirements, many employers are reassessing their compensation practices. Here we share some questions to help guide you." [Full Article](#)

Levenfeld Pearlstein LLC



Cal/OSHA Turns Up the Heat on Employers

"Employers should stay on the lookout for updates to the indoor heat prevention rulemaking process, and in the interim, employers with hot indoor work areas should review their worksite hazard analyses and ensure that any indoor heat hazards are being controlled." [Full Article](#)

Seyfarth

STATE COMPLIANCE UPDATES

MICHIGAN

Michigan Rolls Back its “Right-To-Work” Law; NLRB’s Top Lawyer Provides Post-McLaren Macomb Guidance



“Michigan becomes the first state in nearly 60 years to repeal its RTW law, which was implemented in 2013 under then-Governor Rick Snyder (R). The repeal is viewed as a major victory for union organization which reached an all-time low in 2022.” [Full Article](#)

Benesch Friedlander Coplan & Aronoff LLP

ILLINOIS

Illinois Supreme Court Finds Federal Law Labor Preempts Union Members’ BIPA Claims



“Walton should stop unionized employees from bringing new BIPA claims in state and federal court. Walton also forecloses unionized employees from bringing BIPA claims on a class action basis. Companies on the receiving end of a BIPA lawsuit from a current or former union member should always explore a motion to dismiss the lawsuit on preemption grounds.” [Full Article](#)

Sheppard Mullin Richter & Hampton LLP

DELAWARE

Delaware’s “Freedom of Contract” Approach to Non-Compete Agreements – Even Between Sophisticated Parties in the Sale-of-Business Context – Has Its Limits



“Non-competes agreements have recently gained a new round of attention with the Federal Trade Commission’s (FTC) proposed rule that would effectively ban employers from imposing non-competes (albeit not in certain sale-of-business scenarios).” [Full Article](#)

Gibbons PC

TEXAS

Proposed FTC Ban on Non-Competes: What Texas Business Owners Need to Know



“The proposed rule, announced by the FTC in January, would generally ban the practice of non-competes agreements by making it illegal for an employer to enter these agreements, maintain existing agreements, and/or represent to a worker that they are subject to a non-competes.” [Full Article](#)

Boyar Miller

CALIFORNIA

UPDATED: The City of Los Angeles’ Fair Work Week Ordinance Will Take Effect April 1, 2023



“The Ordinance, which was unanimously passed by the Los Angeles City Council in November 2022, requires retail employers in the City of Los Angeles to provide employees at least 14 days’ advance notice of their work schedules and to compensate employees in the event of certain schedule changes.” [Full Article](#)

Sheppard Mullin Richter & Hampton LLP