

Weekly Digest

• January 18, 2024 •

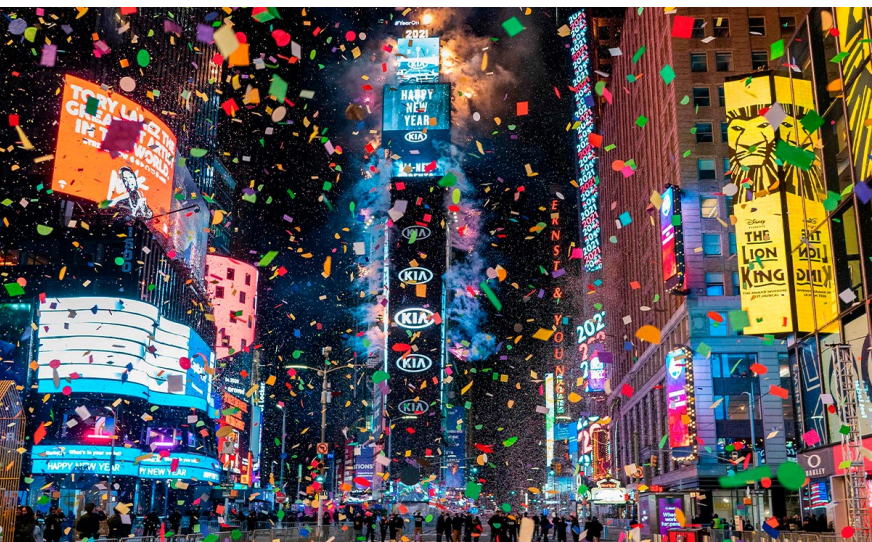
Human Resources

Federal and State Authorities Bring Antitrust Enforcement to the Contingent Workforce Sector

“The U.S. Department of Justice (DOJ), Federal Trade Commission (FTC), and now state attorneys general, have set their sights on staffing companies in their evolving efforts to examine labor markets through an antitrust lens. In recent years, government agencies have stepped up efforts targeting perceived restraints on competition in the labor markets.”

[Full Article](#)

Little Mendelson P.C.



When Will the Ball Drop? Still Waiting on the PWFA Final Regulations

“We rang in the new year waiting and watching for the issuance of the EEOC’s final regulations implementing the Pregnant Workers Fairness Act (PWFA). The Office of Information and Regulatory Affairs (OIRA) received the text of the final regulations for review on December 27. Assuming that the EEOC’s final regulations clear this review, we expect the regulations to be published in the Federal Register soon.”

[Full Article](#)

Jackson Lewis P.C.

In This Digest

PAGE 1

Federal and State Authorities Bring Antitrust Enforcement to the Contingent Workforce Sector

By, Littler Mendelson P.C.

When Will the Ball Drop? Still Waiting on the PWFA Final Regulations

By, Jackson Lewis P.C.

PAGE 2

Hiring Managers – Be Careful of What You Write Down

By, Shawe Rosenthal LLP

Eleventh Circuit Deepens Circuit Split Over Causation Standard for FMLA Retaliation Claims

By, Proskauer Rose LLP

NLRB Seeks to Force Reopening of Shuttered Starbucks Cafés

By, Barnes & Thornburg LLP

Court Rules EEO-1 Reports Are Not Exempt “Commercial” Information Under FOIA; Department of Labor May Appeal

By, Seyfarth Shaw LLP

PAGE 3

State Compliance Updates

Hiring Managers—Be Careful of What You Write Down

“That was the lesson from a recent case from the U.S. Court of Appeals for the Eleventh Circuit, where a hiring manager’s written comment in connection with the selection of a new faculty member became an issue.” [Full Article](#)

Shawe Rosenthal LLP



Eleventh Circuit Deepens Circuit Split Over Causation Standard for FMLA Retaliation Claims

“On December 13, 2023, an Eleventh Circuit panel firmly established “but-for” causation as the Circuit’s causation standard for Family and Medical Leave Act (FMLA) retaliation claims. Courts across the nation have adopted different standards, with the Eleventh Circuit decision only further deepening the circuit split on the topic.” [Full Article](#)

Proskauer Rose LLP

NLRB Seeks to Force Reopening of Shuttered Starbucks Cafés

“One of the more harsh remedies at the National Labor Relations Board’s (NLRB) disposal is forcing companies to reopen shuttered locations in the event the agency determines the decision to close those sites was driven by anti-union considerations. In the wake of the ongoing nationwide union drive at Starbucks, the coffee giant now is facing such a case.” [Full Article](#)

Barnes & Thornburg LLP



Court Rules EEO-1 Reports Are Not Exempt “Commercial” Information Under FOIA; Department of Labor May Appeal

“Many federal contractors and subcontractors treat their EEO-1 reports as confidential because they contain detailed demographic data and workforce information. A lawsuit brought by the Center for Investigative Reporting and reporter Will Evans seeks to force a mass disclosure of EEO-1 Reports by the OFCCP. The litigation reached a critical juncture recently when a federal judge in California ruled that EEO-1 Reports are not protected from disclosure under “Exemption 4” of the Freedom of Information Act, which protects confidential “commercial” information.” [Full Article](#)

Seyfarth Shaw LLP

STATE COMPLIANCE UPDATES

MASSACHUSETTS

Massachusetts Revises Paid Family and Medical Leave Guidance to Provide More Discretion to Employers



"The Massachusetts Department of Family and Medical Leave (DFML) is ringing in the new year with new, more employer-friendly guidance regarding an employee's ability to use paid leave to "top up" Paid Family and Medical Leave (PFML) benefits paid by the Commonwealth of Massachusetts." [Full Article](#)

Little Mendelson P.C.

NEW JERSEY

New Jersey's Minimum Wage Increases Starting January 1, 2024



"New Jersey's new mandatory minimum wage requirement will be effective January 1, 2024. For most employers, the 2024 minimum wage for compensating employees will be \$15.13 per hour (up from \$14.13 per hour in 2023)." [Full Article](#)

Saiber LLC

NEW YORK

New York Governor Vetoes Legislation Prohibiting Noncompete Agreements



"On December 22, 2023, Governor Kathy Hochul vetoed a bill that would have prohibited almost all noncompete agreements in employment contracts in New York." [Full Article](#)

Duane Morris LLP

MARYLAND

Maryland Minimum Wage Increases January 1, 2024



"Maryland employees who earn minimum wage are ringing in the New Year in 2024 with a raise. As we reported in an earlier article, Maryland passed legislation in 2019 that would gradually increase the minimum wage from \$11.00 per hour to \$15 per hour by January 1, 2025. In May 2023, however, the General Assembly passed the Fair Wage Act of 2023, accelerating the schedule so that the minimum wage will now be \$15 effective on January 1, 2024." [Full Article](#)

Gordon Feinblatt LLC

CALIFORNIA

Ring In 2024 With California's Updated Paid Sick Leave FAQs!



"Out with the old, and ring in the new! Effective January 1, 2024, California's amended Paid Sick Leave ("PSL") law goes into effect. As detailed in our prior update, the amendments increase the annual amount of California paid sick leave from 3 days or 24 hours, to the greater of 5 days or 40 hours for eligible employees. The amendments also raise the accrual and year-end carryover cap from 6 days or 48 hours to the greater of 10 days or 80 hours." [Full Article](#)

Seyfarth Shaw LLP