

Weekly Digest

• July 11, 2024 •

Human Resources

The FTC's "Good Faith" Exception to the Non-Compete Ban: Pending Legal Challenges Are Not a Basis for Non-Compliance

"The FTC's recently issued Final Rule banning non-competes for most workers prohibits an employer from (1) threatening to enforce a non-compete against a worker, (2) advising the worker that, due to a non-compete, they should not pursue a particular job opportunity, or (3) telling the worker that the worker is subject to a non-compete." [Full Article](#)

Seyfarth Shaw LLP



U.S. Supreme Court Agrees to Resolve the Split Between the Circuits on the Burden of Proof for FLSA Exemptions

"The U.S. Supreme Court agreed to review a case on appeal from the Fourth Circuit involving the burden of proof required for an employer to show that an employee's job position is exempt from overtime under the Fair Labor Standards Act (FLSA). The high court's decision will have a notable impact on the ability of employers to defend misclassification claims brought under the FLSA." [Full Article](#)

Reed Smith LLP

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Remember That Managers Can Be Individually Liable Under the FLSA!

"A case from the U.S. Court of Appeals for the Eleventh Circuit provides a good reminder that individual owners and managers, even those at a middle level, can be held liable for violations of the Fair Labor Standards Act." [Full Article](#)

Shawe Rosenthal LLP



OSHA Unveils Text of Unprecedented Federal Heat Standard

"On July 2, 2024, the Occupational Safety and Health Administration (OSHA) released the text of its highly anticipated proposed standard that, if finalized, would create the first federal standard aimed at protecting workers from exposure to heat hazards in the workplace, whether indoors or outdoors." [Full Article](#)

Little Mendelson P.C.

EEOC Issues Anti-Harassment Guidance to Construction-Industry Employers

"The guidance emphasizes several core principles to prevent and address harassment in the construction industry, including a committed and engaged leadership, consistent and demonstrated accountability, strong and comprehensive anti-harassment policies, trusted and accessible complaint procedures, and regular, interactive training tailored to the appropriate audience." [Full Article](#)

Seyfarth Shaw LLP



Before the Emergency: Preparing Your Business for Disruptions

"Coastal businesses are no strangers to disruptions caused by emergencies. With experts predicting an extraordinarily active hurricane season, it's important to make time to update your company's preparedness plan.... For each question, we've provided a list of recommended action items." [Full Article](#)

Phelps Dunbar LLP

STATE COMPLIANCE UPDATES

COLORADO



Think You Aren't a Colorado Employer? Colorado Thinks Otherwise

"Do you let an employee work remotely from Colorado? Do any of your workers come into the state, even occasionally, for work? If so, you may have legal obligations under Colorado law you weren't even aware of. Here is a sampling of some, but certainly not all, of Colorado's most far-reaching employment law requirements." [Full Article](#)

Venable LLP

VERMONT



Vermont Joins Pay Transparency Trend with New Job Posting Law

"On June 4, 2024, Vermont Gov. Scott approved H.704, which takes effect July 1, 2025. Advocates of the new law cite advancing pay equity and reducing gender and racial pay gaps as some of the anticipated outcomes." [Full Article](#)

Greenberg Traurig, LLP

CALIFORNIA



California Enacts PAGA Reform; November Repeal Initiative To Come Off Ballot

"California Governor Gavin Newsom announced last week that an agreement to reform the Private Attorneys General Act of 2004 (PAGA) had been reached by legislative leadership, labor organizations, and business groups. Prompted by a June 27 deadline to withdraw a PAGA repeal initiative from the upcoming November ballot, the California Legislature acted quickly this week to enact Assembly Bill 2288 and Senate Bill 92 containing significant changes to PAGA's penalty structure, standing requirements, cure provisions, and other features." [Full Article](#)

Davis Wright Tremaine LLP

MISSOURI



Missouri AG Alleges IBM Used Unlawful Quotas in Employment Practices

"Missouri AG Andrew Bailey has sued International Business Machines Corporation ("IBM"), alleging that the company's use of racial quotas in hiring and other employment actions violates the Missouri Human Rights Act's prohibition on discriminatory employment practices. According to the complaint, IBM's "diversity modifier" policy established employment quotas based on race, color, national origin, sex, or ancestry. Missouri's complaint alleges that because hiring decisions were made based on this policy, the "diversity modifier" illegally discriminates against members of groups that IBM has found are adequately or overrepresented within the company, among other things." [Full Article](#)

Cozen O'Connor

LOUISIANA



Louisiana Becomes Latest State to Prohibit Nondisclosure Clauses Related to #MeToo Claims

"Under a new Louisiana law enacted on June 25, 2024, nondisclosure clauses required by an employer and agreed to prior to a hostile work environment dispute or sexual harassment dispute will be unenforceable." [Full Article](#)

Littler Mendelson P.C.