

Weekly Digest

• August 22, 2024 •

Human Resources

Federal Courts Divided over FTC's Non-Compete Ban Final Rule

"Only a few weeks after a Texas federal court found the Federal Trade Commission's (FTC) Final Rule ("Rule") banning most non-compete agreements likely unconstitutional, a Pennsylvania federal court reached a dramatically different conclusion. In direct contrast to the Texas court's decision, the Pennsylvania court held that the FTC likely has the legal authority to issue the Rule and declined to enter an injunction preventing the Rule from going into effect." [Full Article](#)

Frost Brown Todd LLP



Marijuana Legalization Leads U.S. Workers to Increasingly Test Positive and Cheat on Employer Drug Screens

"According to Quest Diagnostics, one of the nation's leading drug-testing laboratories, positive marijuana tests among the U.S. workforce increased to 4.5% in 2023. The percentage of positive tests was 4.3% in 2022 and 3.1% in 2019. In 2023, Quest conducted about 8.4 million urine drug tests for employers, plus 1.3 million oral fluid tests and 73,000 hair tests." [Full Article](#)

Hall Benefits Law

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What You Post on Facebook Can and Will Be Used Against You (US)

"Anyone who once thought that Facebook was a safe place to vent grievances or insult others probably knows by now that social media is no refuge for posting something that you wouldn't usually say, for example, to your employee. But a Vermont employer learned that lesson the hard way, with a federal district court allowing a lawsuit to move forward in which a former employee alleges that his former employer's Facebook posts about him were unlawful retaliation.."

[Full Article](#)

Squire Patton Boggs



But The Applicant Didn't Tell Me They Were Disabled...

"According to the EEOC, after a newly-hired scheduling assistant informed the employer about her vision impairments and need for accommodation, 'the employer questioned why she did not raise these issues in her interview, and immediately terminated her.' The employer also apparently ignored offers from her vocational representative to provide - and pay for - the accommodations she needed. Which eventually led to the EEOC suing the employer for violating the Americans with Disabilities Act." [Full Article](#)

Shawe Rosenthal, LLP

Employee May Be Fired for Refusing to Cooperate in Employer's Investigation

"The employer had a legitimate reason to terminate an employee based on his refusal to cooperate in the investigation into his possible wrongdoing, according to the U.S. Court of Appeals for the Ninth Circuit. Moreover, the fact that his termination occurred 56 days after his internal discrimination complaints meant that there was not sufficient temporal proximity to support the claim of unlawful retaliation."

[Full Article](#)

Shawe Rosenthal LLP



Election Season is Upon Us: Navigating Politics in the Workplace in 2024 (US)

"In today's divisive climate, political speech in the workplace is a topic of increasing relevance and complexity. While workplace discrimination based on race, gender, religion, age, or disability has long been prohibited, discrimination on the basis of an employee's political affiliations or beliefs is a more nuanced, often overlooked challenge since it is not among the characteristics protected under federal workplace anti-discrimination laws." [Full Article](#)

Squire Patton Boggs

STATE COMPLIANCE UPDATES

MASSACHUSETTS

Employer FAQ: Massachusetts's New Pay Transparency And Pay Data Reporting Requirements



"Massachusetts has passed into law An Act Relative to Salary Range Transparency (the "Act"), which means that pay transparency and pay data reporting requirements will soon become official. In advance of the effective dates in 2025, covered businesses must understand and prepare for new compliance obligations." [Full Article](#)

Mintz, Levin, Cohn, Ferris, Glovsky and Popeo, P.C.

CONNECTICUT

Connecticut Adopts Narrow Definition of "Supervisor" for Hostile Work Environment Claims

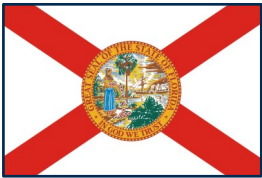


"The Connecticut Supreme Court recently adopted the U.S. Supreme Court's relatively narrow definition of "supervisor" for use in determining when employers are liable under the Connecticut Fair Employment Practices Act (CFEPA) for creating or failing to remedy a hostile work environment. The decision provides employers with clarity as the term is not defined by the CFEPA." [Full Article](#)

Little Mendelson P.C.

FLORIDA

Federal Court Strikes Down FL Workplace Training Restrictions



"The U.S. District Court for the Northern District of Florida permanently blocked a provision of Florida's Individual Freedom Act (IFA) on July 26. The act banned certain workplace training concerning race, sex and discrimination. The permanent injunction follows the Eleventh Circuit Court of Appeals' ruling that the act violated the First Amendment and removes the act's restrictions on employee training programs." [Full Article](#)

Phelps Dunbar LLP

ILLINOIS

Latest Updates to Illinois Personnel Records Review Act



"The Illinois state legislature has once again amended the Personnel Records Review Act (the "Act"), imposing new obligations on employers navigating personnel record requests. Effective January 1, 2025, HB 3763 requires those responding to such requests to update current procedures to make way for these new requirements." [Full Article](#)

Little Mendelson P.C.

CALIFORNIA

Delay In California's Minimum Wage Increase for Health Care Workers



"While there is a delay in the effective date of the increased health care minimum wage until at least October 15, 2024, this should not deter health care employers from analyzing now whether they are appropriately classifying themselves and their workers to determine which category of minimum wage increase will apply to them." [Full Article](#)

Sheppard, Mullin, Richter & Hampton LLP