

Labor & Employment Workforce Watch

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A guide to the employment law developments most likely to impact your business.

In This Issue:

How Inflation in 2022 Could Affect Non-Compete Agreements in 2023

Employers do not need to be reminded that inflation reared its ugly head in 2022. Whether it was the price of gas at the pump, food, vehicles, or computers, the cost of doing business certainly went up last year. But increased prices are not the only impacts of inflation. There are hidden costs, too. One less well-known cost is that many multi-state employers may suddenly be at risk of having some of their non-compete agreements run afoul of applicable state law. [read more](#)

Don't Drop the Ball in the New Year: Wage and Hour Issues Employers Should Watch Out for in 2023?

As we previously covered, on October 13, 2022, the United States Department of Labor ("DOL") issued a proposed new rule for classifying workers under the Fair Labor Standards Act. The proposed rule largely mirrors the Obama-era test, which seeks to focus "on the economic realities of the workers' relationship with the employer," and frames a worker's economic dependence on their employer as the "ultimate inquiry" for the test. [read more](#)

WARN-ing Ahead: Key Considerations and Reminders for Employee Separations in 2023

Given the current economic climate, employers may find themselves in the unfortunate position of needing to conduct a reduction in force or layoff in 2023. Before doing so, employers must consider and evaluate the impact of state and federal law relating to such separations. [read more](#)

Employees 'Speak Out!': How the Speak Out Act Will Affect Employee Non-Disclosure Agreements

In early 2022, President Joe Biden signed the Ending Forced Arbitration of Sexual Assault and Sexual Harassment Act. Inspired by the #MeToo movement, the law banned compulsory, pre-dispute arbitration clauses in cases involving allegations of workplace sexual harassment or sexual assault. The federal government's goal was to provide victims of workplace sexual misconduct with increased options to bring their claims in court. [read more](#)

Tips for Complying With New Pay Transparency Laws Requiring Disclosure of Pay Ranges

Over 20 states and local jurisdictions have enacted pay transparency laws that are intended to address gender and other forms of bias in the pay received by women and minorities. Some jurisdictions require that companies provide salary or hourly pay ranges for open positions to candidates who ask for such information, and others prohibit companies from asking applicants about their current and past salary or pay rate. [read more](#)

Proposed Changes to Voluntary Fiduciary Correction Program (VFCP): DOL Adds Self-Correction for

Late Deposits of 401(k) Contributions

In November 2022, the U.S. Department of Labor (DOL) proposed changes to its Voluntary Fiduciary Correction Program (VFCP). VFCP allows plan sponsors to voluntarily correct certain fiduciary breaches to avoid civil enforcement actions and civil penalties under the Employee Retirement Income Security Act of 1974 (ERISA). A popular tool for correcting late deposits of participant deferrals and loan repayments, VFCP requires the plan sponsor to submit a paper application with the DOL to obtain the no-action letter relief; self-correction is not available under the current VFCP. [read more](#)

A Review of Planned Changes in UK Employment Law

After six years of the UK political agenda being dominated by Brexit, the COVID-19 pandemic, and significant political upheaval, the UK has returned to more normality and, with that, some significant expected employment law changes. Although still progressing through Parliament and subject to amendment and final approval, the following changes are expected to come into effect during 2023. [read more](#)

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