Articles + Publications | May 4, 2021

Labor & Employment Workforce Watch

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

In This Issue:

COBRA Premium Subsidy Under the American Rescue Plan Act: Employers Need to Take Action by May 31, 2021
Under the American Rescue Plan Act of 2021 (ARPA), which was signed into law by President Biden on March 11, 2021, certain individuals who lost group health plan coverage due to an involuntary termination of employment or reduction in hours may be eligible to receive a 100% COBRA premium subsidy. read more

COVID-19 Vaccinations: Thoughts for Employers
As the COVID-19 vaccination becomes more readily available, many employers are considering whether to require that employees be vaccinated. In December 2020, the Equal Employment Opportunity Commission (EEOC) issued guidance addressing certain questions related to the administration of the COVID-19 vaccination. read more

Fraudulent Unemployment Claims? Steps to Take to Resolve
More than six million unemployment claims have been filed in Texas since the start of the COVID-19 pandemic.? Unfortunately, the significant number of claims has also created an opportunity for fraudsters to try to sneak under the radar and obtain unemployment benefits using stolen identities (name, Social Security Number, and employer name, for example). read more

OSHA Ramps-up Covid-19 Inspections and Enforcement
On March 12, 2021, the Occupational Health and Safety Administration (OSHA) took two major steps in the COVID-19 battle: it enacted a COVID-19 National Emphasis Program (NEP) and an Updated Interim Enforcement Response Plan for Coronavirus 2019 (ERP). OSHA acted while employers await what pundits believe to be an imminent COVID-19 Emergency Temporary Standard. read more

Employers Beware: Major Changes to the NLRA if the PRO Act Passes the Senate
The Protecting the Right to Organize Act of 2021 (H.R.842/S.420), otherwise known as the PRO Act, passed the House of Representatives on March 9, 2021 by a vote of 225-206. The fate of the Act is now left to the Senate, with little likelihood of gaining enough votes to overcome the filibuster and land on President Joe Biden's desk. read more

A Day Rate and a Dollar Short: The Fifth Circuit Continues to Make Key Wage and Hour Rulings
Lawsuits alleging Fair Labor Standards Act (FLSA) violations continue to be among the more "popular" filings in federal district courts, with over 6,500 such cases filed between December 2019 and December 2020. Perhaps the most significant rulings in this regard were issued in March of 2021 by the United States Court of Appeals for

the Fifth Circuit when it opined upon the availability of FLSA exemptions as well as the extent to which the FLSA may preempt certain state laws. read more

What Happens if My Texas Restrictive Covenant is Reformed?
"Is this non-compete enforceable?" It's a question regularly raised by employers, the answer to which depends on state law. The duration of restrictive covenants, prohibited activities, and even the description of the restricted geographic areas may vary from state-to-state. Many employers are likely familiar with such concepts, but one variable that often gets overlooked is "blue-penciling" – how will a court address an overbroad restrictive covenant? read more

Riding the Green Wave – Considerations for Employers in Dealing With Marijuana Legalization
As a wave of marijuana legalization continues to sweep the country, employers (especially those with multi-state operations) must grapple with its impact on their operations and workforce. read more

Your Top Questions About COVID-19 Liability Shield Laws: Answered
While the efforts to pass a federal COVID-19 liability shield law have failed, Governor Doug Ducey's recent signature on Arizona's enactment marks the 28th state that has passed shield law legislation since the outbreak of COVID-19 in the United States. Similar legislation is pending in more than a dozen other states, and nearly a half dozen additional states have baked some form of liability shield into emergency executive orders currently in place. read more

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