

# TOP WORKPLACE LAW STORIES YOU MAY HAVE MISSED OVER THE HOLIDAYS

Insights  
Dec 30, 2022

Happy 2023! We hope you had some time to unwind and recharge over the winter holiday season – but you may be feeling out of the loop now that your attention is turned back to work. We know it’s hard to keep up with all the recent changes to labor and employment law, especially during the holidays. That’s why we’ve collected the most important workplace law stories that came down while you were celebrating and assembled them in one quick-and-easy Insight.

## Significant Federal Law Changes

### [The Birth of New Workplace Protections for Pregnant and Postpartum Workers: 4 FAQs for Employers](#)

After nearly an 18-month delay, Congress approved the Pregnant Workers Fairness Act (PWFA), requiring covered employers to provide reasonable accommodations for employees with medical conditions related to pregnancy and childbirth. This legislation – along with the PUMP Act which expands the 2010 federal breastfeeding law — were added to the \$1.7 trillion 2023 omnibus spending bill that President Biden sign into law on December 29. What do you need to know about the new workplace requirements? Here are the answers to the four most significant questions employers are likely to ask.

### [Congress Passes Landmark Bill Protecting Same-Sex Marriage: Key Takeaways for Employers](#)

In a historic move, Congress approved legislation protecting the right of same-sex couples to get married, and President Biden signed the law into effect on December 13. For

## Related People



**Brian Balonick**

Regional Managing Partner

[412.822.6633](tel:412.822.6633)



**Steven M. Bernstein**

Regional Managing Partner  
and Labor Relations Group  
Co-Chair

[813.769.7513](tel:813.769.7513)

employers, the new law provides clarity that same-sex marriages will continue to be afforded the same protections as opposite-sex marriages. What do you need to know about the act and its impact on the workplace?

### **10 Most Significant Employee Benefits Law Changes in 2023's Federal Spending Bill**

In addition to providing pregnancy-related workplace protections — and ensuring the federal government remains fully funded — the Continuing Appropriations Act, 2023 (CAA 23) contains several provisions that will directly impact health and retirement benefit plans. Here are the 10 most significant items that employer plan sponsors need to know about CAA 23.

### **Supreme Court Accepts New Case**

#### **SCOTUS to Review Critical Arbitration Case: 3 Questions for Employers to Consider**

Employers that face lawsuits from employees often seek to move such claims from the courthouse to arbitration. But what happens if the trial court refuses to compel arbitration and the employer appeals the decision? Should the litigation continue at the trial court level while the employer asks the appeals court to weigh in? Or should the trial court pause the proceedings until the appellate court makes a decision? The Supreme Court recently agreed to hear a case that asks these questions – and its decision could reshape your approach to workplace litigation. Here are the three key questions for employers to review as you await a SCOTUS ruling in *Coinbase, Inc. v. Bielski*.

### **Busy Time for Labor Relations**

There were four significant developments in the world of labor relations you need to know about:

- **New NLRB Decision Means Employers Will Have to Pay Up for Labor Violations** – A decision from the NLRB on December 13 means employers may now be called upon to compensate suspended and discharged workers beyond backpay and other traditional forms of make-whole relief when found to have committed labor violations. Employers should prepare for the new normal after this latest setback from the current Labor Board.



**Amanda M. Blair**

Associate

212.899.9989



**Melissa Camire**

Partner

212.899.9965



**Robert C. Christenson**

Partner

404.240.4256

- **NLRB Reinstates Broad Property Access Rights for Third-Party Contractors** – The NLRB overruled a key Trump-era decision that had narrowed property access rights for off-duty contractor employees, eliminating a powerful tool for employers to combat unwanted solicitation on their premises. What do employers need to know about this latest blow in the area of labor relations law?
- **NLRB Resurrects Controversial Standard Giving Unions More Leeway to Organize ‘Micro Units’** – The NLRB made it easier for labor unions to organize smaller bargaining units known as “micro units” that can include small subsets of the overall workforce. The Board’s move, which overturns a Trump-era standard adopted in 2017, is significant because it could help organized labor establish footholds in businesses where only a small group of employees are seeking union representation.
- **Teamster Pension Bailout May Not Be Remedy Employers Hoped For** – Christmas came early this year for the beleaguered Teamsters Central States Pension Fund and its over 350,000 participants – but employers may soon realize they just received a lump of coal in their stockings. On December 8, President Biden announced a \$35.8 billion payment to the Fund designed to allow it to remain solvent through the end of 2051. But why is it that employers may have a New Years’ hangover despite these bailouts?

## Critical Immigration Updates

### **5 Key 2022 Updates to Form I-9 Compliance as Employers Head Into 2023**

As we say goodbye to 2022 and set course for 2023, it’s a good time to reflect on changes that have occurred in the past year – and changes we expect to occur in the new year. This is especially true when it comes to the field of workplace immigration documentation, an area that has seen dramatic developments over the past 12 months and is likely to see further significant evolution in the year ahead. Here are the top five I-9 and E-Verify updates from the past year that employers should know about as we move forward into the new year, and a glimpse into what you can expect in 2023.

## New York



**Myra K. Creighton**

Partner

**404.240.4285**



**Benjamin M. Ebbink**

Partner

**916.210.0400**



**Rick Grimaldi**

Partner

**610.230.2136**

Employers in New York have at least three new workplace obligations to focus on in the new year:

- **[New York State Enacts Statewide Salary Disclosure Law: A 5-Step Compliance Plan](#)** – Governor Hochul approved an amendment to New York’s state labor law on December 21 which will require private sector employers in the state to disclose salary ranges on job postings. Here is what employers need to know about the legislation — which potentially has reach nationwide – and a five-step compliance plan.
- **[New York State Expands Required Workplace Accommodations for Nursing Employees: 5 Things Employers Should Know](#)** – New York is expanding accommodations and protections for nursing employees in the workplace under an amendment the governor signed into law in December. Here are the five things New York employers should know.
- **[NYC Postpones Enforcement of Local Law Targeting Automated Employment Screening Tools](#)** – Employers that use software to help screen candidates or employees in New York City will have a little more time to comply with a local law regulating the use of automated employment decision tools (AEDTs). The law was supposed to take effect on January 1, but enforcement has been postponed until April 15. What do you need to know about the latest developments?

## California

Things remained active in California, as usual:

- **[The Cal/OSHA Fantastic Voyage Continues – Come Along and Ride with the 10 Biggest Changes in the Permanent COVID-19 Regulation](#)** – As we near the end of the Cal/OSHA COVID-19 Emergency Temporary Standard (ETS), Cal/OSHA has promised a new COVID-19 workplace regulation in its place. So what do California employers need to know about this forthcoming permanent regulation? Your first step: Read on for a comprehensive “deep dive” including the top 10 changes you need to know about to prepare. After that: **[Register for FP’s complimentary webinar on January 4](#)** so you can engage with our firm’s leaders in this area and make sure you are ready.



**David S. Jones**

Regional Managing Partner

**901.526.0431**



**Matthew R. Korn**

Partner

**803.740.7652**

## Service Focus

**Counseling and Advice**

**Employee Benefits and Tax**

**Employee Leaves and Accommodations**

**Employment Discrimination and Harassment**

**Immigration**

**Labor Relations**

**Litigation and Trials**

**Pay Equity and Transparency**

**Privacy and Cyber**

- **California Provides Some (But Not Much) Guidance on New Pay Scale Disclosure Requirement: 6 Key Takeaways for Employers** – California officials recently updated their Equal Pay Act FAQs to answer a handful of questions about the state’s new pay transparency requirement for job postings — which went into effect on January 1. But California employers who were expecting their stockings to be filled with clarifications and insightful guidance from the state may instead be left feeling like they received a lump of coal. While the California Division of Labor Standards Enforcement’s (DLSE’s) December 27 update provides some needed clarification regarding SB 1162, it leaves many questions unanswered and falls short of the more detailed and comprehensive guidance issued by states like Washington and Colorado regarding their own job posting requirements. Here are the six key takeaways for employers as you prepare to comply with California’s new law.

We will continue to monitor developments related to all aspects of workplace law. Make sure you are subscribed to [Fisher Phillips’ Insight system](#) to get the most up-to-date information. If you have questions, contact your Fisher Phillips attorney.

Wage and Hour

Workplace Safety

---

**Industry Focus**

Retail