



January 2016: Five Biggest Labor And Employment Law Stories

Insights

2.01.16

The world of labor and employment law is always rapidly evolving. In order to make sure that you stay on top of the latest developments, here is a quick review of the five biggest stories from last month that all employers need to know about.

1. Employers Might Soon Be Forced To Reveal Pay Data

On January 29, the federal government announced that it wants to gather pay information from all employers with over 100 employees. The aim of this proposal is simple: the government wants to determine if pay gaps between genders exist at your workplace so as to increase gender discrimination enforcement action. If the proposal proceeds as expected, affected employers will have a new EEO-1 form to fill out by the end of the year (read more [here](#)).

2. Court Upholds Wellness Programs, Rejects EEOC Challenge

Yes, this decision was issued on December 31, but employers were too busy wrapping up year-end work to notice it until they came back from the New Year's break. But the news was worth the wait. A federal judge in Wisconsin upheld an employer's wellness program despite a legal challenge from the EEOC. The program requires employees to submit to a health risk assessment and provide medical data if they want healthcare coverage, which the EEOC argued was an ADA violation. The ruling is a good one for employers, but you still should wait to see if the other shoe will drop. The case will likely be appealed, and the government will be issuing regulations on wellness programs sometime in 2016 (read more [here](#)).

3. SCOTUS Removes Weapon From Employers' Class Action Defense Arsenal

On January 20, the U.S. Supreme Court issued its decision in the *Gomez v. Campbell-Ewald Co.* case, limiting employers' ability to proactively and inexpensively end class action litigation before it gets off the ground. The case asked the question whether a class action lawsuit would be mooted and subject to dismissal if the defendant made a complete offer of relief (sometimes called an offer of compromise, or an offer of judgment) to the plaintiff; the Court said this tactic would not work to kill the case. While it was not an employment case, the decision reduces the ways employers might have to easily rid themselves of these costly class action cases (read more [here](#)).

4. Department of Labor Releases Broad "Joint Employment" Interpretation

That same day, the U.S. Department of Labor took its next step in its nearly six-year-old "fissured industries" initiative and released a new interpretation addressing the concept of joint employment.

The message was blunt. The USDOL is seeking to put as many employers as possible on the hook for wage-and-hour violations by publishing a very broad standard. Impacted employers are those engaged in multi-participant arrangements, such as outside-party management, joint ventures, staffing services, employee leasing, temporary help, subcontracting, certain kinds of “job sharing,” and dedicated vendors/suppliers (read more [here](#)).

5. Employers Claim Another Medical Marijuana Victory

On January 7, employers won another round in their ongoing battle against medical marijuana in the workplace. A federal court judge in New Mexico dismissed a lawsuit brought by an employee who was terminated after testing positive for the drug, finding that state law does not require employers to accommodate medical cannabis use. This continues the string of successes employers have enjoyed in Washington, Oregon, Colorado, California, and Montana. While not every employer has the right to uniformly enforce their zero tolerance policies in light of medical marijuana, this case continues a positive trend for employers (read more [here](#)).

If you have any questions about these developments or how they may affect your business, please contact your Fisher Phillips attorney.

This Legal Alert provides an overview of specific legal developments. It is not intended to be, and should not be construed as, legal advice for any particular fact situation.

Related People



Richard R. Meneghello
Chief Content Officer
503.205.8044
[Email](#)

Service Focus

Affirmative Action and Federal Contract Compliance

Privacy and Cyber

Employee Leaves and Accommodations

Litigation and Trials

Counseling and Advice

Industry Focus

Hospitality