

APRIL 2016: FIVE BIGGEST LABOR AND EMPLOYMENT LAW STORIES

Insights
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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. Uber's \$100M Settlement Can Teach Lesson To All Employers

Ride-sharing service Uber announced on April 21 that it had reached a preliminary settlement for up to \$100 million to settle claims alleging that it improperly classifies its workforce as independent contractors. This is a groundbreaking agreement for gig economy businesses in that the agreement retains the independent contractor classification for Uber drivers, perhaps setting the stage for the development of a hybrid classification of worker somewhere between "contractor" and "employee." For all other employers, it provides a valuable reminder to ensure accurate workforce classifications (read more [here](#)).

2. Supreme Court Rules That Perceived Political Expression Is Protected By First Amendment

Right in time for election season, the Supreme Court announced its decision in *Heffernan v. City of Paterson* on April 26, holding that the First Amendment of the U.S. Constitution protects both actual and perceived political speech and expression by public employees. The case – involving a public worker who was demoted after being spotted carrying an election lawn sign promoting the mayor's rival, but who later claimed he was only doing so on behalf of his bed-ridden mother – confirms that public sector employers can be liable for constitutional claims even

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Richard R. Meneghello

Chief Content Officer

503.205.8044

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if the adverse employment action was based on an inaccurate belief of political support (read more [here](#)).

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3. San Francisco Becomes First City In Nation To Require Paid Parental Leave

On April 5, the City of San Francisco became the first city in the country to pass legislation requiring many employers to provide workers with paid parental leave. Starting in 2017, many businesses in the city will be required to provide up to six weeks of fully paid parental leave to most workers after certain conditions are met. This groundbreaking law will force employers to revamp administrative policies and practices, while adjusting budgets to foot this new bill. It could be a harbinger of things to come in other jurisdictions across the nation; in fact, New York City approved a similar measure the very next day (read more [here](#)).

4. Fisher Phillips Offers Comments On EEOC's Proposed Pay Data Collection Rules

On April 1, Fisher Phillips submitted comments to the Equal Employment Opportunity Commission (EEOC) regarding the agency's proposed regulations that would require any business with 100 or more workers to provide detailed information about their pay practices to the federal government through the annual EEO-1 Report. The goal of these proposed regulations is to better track pay disparities between genders so as to increase enforcement of equal pay standards. However laudable this aim, the firm's comments point that the proposed regulations are troubling for several reasons, discussing the undue burden of the proposed report, the questionable utility of the data collection, and the serious privacy concerns that accompany the gathering and production of this information (read more [here](#)).

5. Two States Join Privacy Fray With Controversial Laws Impacting Employers

On April 5, Mississippi passed a religious freedom law that aims to protect individuals and organizations from legal consequences that would otherwise result from religiously motivated actions; opponents contend that the new law legalizes discrimination against LGBT individuals (read more [here](#)). And on April 12, the Governor of North Carolina issued an Executive Order intending to clarify the controversial new state "bathroom law" which prevents local governments from passing their own antidiscrimination ordinances (including those that would offer greater protections to LGBT individuals) (read more [here](#)). It is important to note that

neither law shields employers from federal antidiscrimination laws. Even if similar laws spring up in other states, employers should understand they do not have the unfettered right to discriminate without facing repercussions from the EEOC, OSHA, and other federal agencies, not to mention private lawsuits.

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.