

SEPTEMBER 2016: THE 8 GREATEST LABOR AND EMPLOYMENT LAW STORIES

Insights
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The world of labor and employment law is always evolving at a rapid pace. In order to make sure that you stay on top of the latest developments, here is a quick review of the eight greatest stories from last month that all employers need to know about:

1. Employers Win Latest Round In Class Waiver Fight

Employers breathed a sigh of relief after the 2nd Circuit Court of Appeals once again upheld the validity of class and collective action waivers in arbitration agreements. Rather than siding with several recent circuit courts that struck down mandatory class and collective action waivers, the 2nd Circuit (covering New York, Connecticut, and Vermont) stuck to its guns and prior precedent to rule on September 2 that employers can require employees to bring arbitration claims on an individual basis and prohibit them from joining together to bring class or collective actions (*Patterson v. Raymour's Furniture Co.*)

However, the court's summary order practically invites a full panel of the circuit court or the U.S. Supreme Court to intervene and overrule controlling precedent, signaling that this battle is far from over (read more [here](#)).

2. Federal Appeals Court Hands Uber Major Victory In Arbitration Agreement Fight

The 9th Circuit Court of Appeals delivered a significant victory to Uber and other gig economy businesses on September 7 by reversing a trial court's denials of Uber's motions to compel arbitration in companion class action lawsuits brought by former drivers in Massachusetts and California. The decision not only provides tremendous

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leverage to Uber as it continues to fight class action litigation over classification issues, but it also boosts gig employers in their efforts to require mandatory arbitration instead of costly courtroom battles (read more [here](#)).

3. Federal Contractor Paid Sick Leave Rules Finalized

The U.S. Department of Labor (USDOL) unveiled final regulations on September 29 that will require federal contractors to provide up to 56 hours of paid sick leave to those employees performing work on or in connection with certain contracts issued on or after January 1, 2017. President Obama issued an Executive Order to mandate this requirement in September 2015, but the regulations themselves create a whole set of new specific responsibilities. Contractors will want to familiarize themselves with these rules as soon as possible (read more [here](#)).

4. Contractor Minimum Wage Rate Released For 2017

On September 20, the USDOL also published the 2017 wage-rate floor for federal contractors, announcing that the minimum wage as of January 1, 2017 will rise to \$10.20 per hour. At the same time, USDOL announced that the 2017 minimum cash wage for tipped workers performing on or in connection with a covered contract again will increase by 95 cents per hour, that is, to \$6.80 per hour. This too takes effect beginning on January 1, 2017 (read more [here](#)).

5. FLSA OT Rules Challenged In Court And Congress

On September 20, two federal lawsuits were filed challenging the USDOL in court in an effort to stop or delay the impending increases to the dollar-amount thresholds for most of the federal Fair Labor Standards Act's so-called "white collar" exemptions. A total of 21 states filed suit in the first case and raised various arguments opposing the changes, in particular focusing on the application to public employers and future automatic updates. Mere hours later, numerous business groups filed a somewhat similar suit in the same district court on behalf of their members (read more [here](#)).

The next day, the U.S. House of Representatives introduced a bill to delay the coming regulations until June 1, 2017 (read more [here](#)). Our firm's position regarding these attempts: we continue to urge employers to move forward with their final preparations under the assumption that no challenge will be successful.

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6. Seattle City Council Passes Secure Scheduling Law

In keeping with its goal of pioneering workers' rights, Seattle's City Council passed its controversial Secure Scheduling Ordinance on September 19, which will require certain retail and food establishments to provide both a "livable wage" and a "livable schedule" to their employees. Their employees also gain the right to request, and in some situations obtain, the preferred schedule of their choice.

The ordinance will go into effect July 1, 2017. The city will likely issue regulatory rules further refining compliance requirements before next year's effective date. However, impacted employers will want to review the proposed ordinance's requirements now; once effective, it will bring significant changes to your practices along with significant risks for failing to meet its requirements (read more [here](#)).

7. California Legislature Adds Extra Set Of Teeth To Fair Pay Act's Protections

On September 30, 2016, California Governor Jerry Brown signed the Wage and Equality Act of 2016 (SB 1063) into law, which will prohibit employers from paying employees of one race or ethnicity a lower wage than employees of different races or ethnicities. The bill is a virtually verbatim extension of the Fair Pay Act's requirements that apply between workers of opposite genders. It will go into effect on January 1, 2017.

California businesses have had less than a year to acclimate themselves to what was already regarded as the most aggressive equal pay protection law in the country. A California employer's work never ends, and businesses must now scramble to ensure that they meet the same pay equity requirements between workers of differing races and ethnicities by the start of the new year (read more [here](#)).

8. Trump, Clinton Talk Workplace Law At First Debate

The topic of labor and employment law made an early appearance at the September 26 presidential debate between Democratic candidate Hillary Clinton and Republican candidate Donald Trump. Although typically not a needle-moving topic garnering much by the way of mainstream attention, the two nominees were able to spend some time discussing their positions on subjects that could directly impact the workplace during their first head-to-head encounter (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.