

DECEMBER 2016: THE 8 BIGGEST 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 biggest stories from last month that all employers need to know about:

1. ANDREW PUZDER TAPPED AS NEXT SECRETARY OF LABOR

On December 8, President-elect Donald Trump announced that he would nominate Andrew Puzder to be the next Secretary of Labor. This Cabinet-level position heads the U.S. Department of Labor (USDOL), one of the federal agencies that has the widest and deepest impact on employers across the country. A group of Fisher Phillips lawyers described what employers need know about him in order to predict what life will be like under his tenure as part of the Trump administration, touching on wage and hour law, workplace safety, affirmative action, pay equity, labor law, and immigration matters (read more [here](#)).

2. MINIMUM WAGE INCREASES IN STORE FOR MANY IN 2017

December was the perfect time to ready your workplaces for the minimum wage increases that have now swept the nation once the clock struck midnight on December 31. If you haven't reviewed the list of updated laws in states and local jurisdictions to determine if your business will be impacted, the time to do so is now. Also, there will be additional increases planned for the remainder of 2017 (read more [here](#)).

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3. FEDERAL COURT WILL EXAMINE WHETHER GIG WORKERS SHOULD EARN “ON-CALL” PAY

On December 14, a federal court judge in Pennsylvania permitted a group of Uber drivers to proceed with a lawsuit alleging a theory that they were owed wages for “on-call” time while they were logged into the ride-sharing service’s app. This lawsuit will bear monitoring in the New Year to determine whether it will have an impact on the sharing economy (read more [here](#)).

4. GOVERNMENT APPEALS OVERTIME RULING; DECISION NOT EXPECTED UNTIL FEBRUARY

On December 1, the USDOL filed an appeal to the 5th Circuit Court of Appeals seeking to overturn the preliminary injunction that prevented the salary-related changes in the federal Fair Labor Standards Act’s “white collar” exemptions from taking effect. Soon thereafter, the court of appeals set an expedited briefing schedule, but oral arguments will not take place until at least February. This means that the next significant action in this case will likely not take place until after the Trump administration has taken power over the USDOL (read more [here](#)).

5. CALIFORNIA SUPREME COURT RULES THAT REST BREAKS MUST BE DUTY FREE

The California Supreme Court ruled on December 22 that employers must provide their workers with duty-free rest breaks or face potentially devastating financial consequences. Most California employers know that state law generally requires them to provide meal and rest breaks to non-exempt employees during their work day, and failure to do so could result in being forced to pay an additional one hour of pay at the employee’s regular rate of pay. As this decision illustrates, failure to comply with these often onerous requirements can lead to overwhelming financial liability for California employers in all industries (read more [here](#)).

6. FEDERAL COURT RULES THAT EMPLOYEES SEEKING ACCOMMODATION MUST COMPETE FOR REASSIGNMENT

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The 11th Circuit Court of Appeals ruled that a disabled worker forced to leave her position because of her physical impairment must compete for vacant jobs when seeking reassignment, handing a victory to her former employer. By concluding that employers have no obligation to provide preferential treatment to individuals with disabilities when attempting to accommodate them via reassignment, the December 7 court decision runs in direct conflict with various other circuits – and the EEOC – which have ruled otherwise. Unless and until the Supreme Court steps in to resolve the circuit split, employers must be sure to carefully navigate the various standards that exist across the country when accommodating their employees (read more [here](#)).

7. LABOR DEPARTMENT FINALIZES APPRENTICESHIP PROGRAM DISCRIMINATION RULE

On December 16, the USDOL finalized a rule expanding nondiscrimination and affirmative action requirements in apprenticeship programs registered with the USDOL or state apprenticeship agencies. Program sponsors face staggered implementation of the rule's provisions beginning in just a few short weeks – on January 18, 2017 – so the time to come into compliance is now (read more [here](#)).

8. OSHA FINALIZES NEW RETALIATION RULE FOR AUTO INDUSTRY

The Occupational Safety and Health Administration (OSHA) published its final rule on December 14 establishing procedures and time frames for handling automotive industry employees' whistleblower retaliation complaints under MAP-21 (the Moving Ahead for Progress in the 21st Century Act, 49 U.S.C. 30171). The final rule, which became effective immediately, has broad implications for the industry. Affected employers should immediately take the time to familiarize themselves with it and take any steps necessary to ensure compliance (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.

