



Workplace Law Update: 10 Essential Items on Your September To-Do List

Insights

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It's hard to keep up with all the recent changes to labor and employment law, especially since the law always seems to evolve at a rapid pace. In order to ensure you stay on top of the latest changes and have an action plan for compliance, here is a quick review of some critical developments we tracked in August and a checklist of the essential items you should consider addressing in September and beyond.

Reassess your non-compete policies in light of a major court decision. A Texas federal court just struck down the FTC's proposed ban on non-competition agreements on a nationwide basis. While there is a slim chance the rule could be resurrected by a federal appeals court in the future, what's for certain after the August 20 ruling is that you will not have to comply with the rule by September 4 as originally scheduled. [Click here to learn more about this significant development and what you should do now.](#)

Be prepared for hurricanes and other workplace disasters. Our detailed set of Frequently Asked Questions, fully updated for 2024, addresses the workplace-related issues facing employers in the wake of hurricane-related disasters. [Here are the most critical issues you need to be aware of during preparation and recovery.](#)

Track lawsuits challenging the federal overtime rule. If one Texas employer has its way, we wouldn't be fighting over whether the Department of Labor has the right to

raise the floor of the salary basis test for determining OT exempt status – we’d instead conclude that the federal agency never had the right to even set a salary floor in the first place. The 5th U.S. Circuit Court of Appeals heard arguments on August 7 from a Texas-based restaurant chain that Congress never authorized the DOL to do anything other than create the various job categories that would be exempt from overtime pay, seeking a ruling that would destroy the long-standing salary basis test altogether and send shockwaves across the country. [Click here to learn more about this potentially momentous case.](#)

_____ **Follow five key Senate races that could impact employers.** While all eyes have been glued to the race between Donald Trump and Kamala Harris at the top of the ticket, down ballot races will play a pivotal role in determining which policies will become law in a presidential administration. [Here are the top five races to watch in the U.S. Senate.](#)

_____ **Review the White House “Time Is Money” initiative.** The Biden administration wants to crack down on corporate practices that it believes waste consumers’ time and money through excessive paperwork, long wait times, and other aggravations – and you’ll want to take note so you can stay out of the government crosshairs. The August 12 initiative primarily targets consumer-facing companies, but it’s important for employers to be aware of the broader implications and potential impact on business practices. [Here are five steps employers should consider taking to minimize potential liability.](#)

_____ **Read the employer’s playbook for managing remote and hybrid workforces.** The rise of remote work has forced employers to tackle one challenge after another – and now the biggest challenge is effectively managing remote and hybrid workforces for the long term. [This playbook addresses your greatest sources of frustrations and give you the solutions you need to resolve them.](#)

_____ **Keep up to date on tip credit rules.** A federal appeals court delivered some good news to hospitality employers on August 23 by blocking the DOL’s infamous 80/20/30 rule. The DOL’s rule — which creates time-keeping and other compliance nightmares — applied to employers that take the tip credit toward their minimum wage obligation

under federal wage and hour law. But the 5th U.S. Circuit Court of Appeals said the DOL's interpretation doesn't align with the FLSA's text or the intent of Congress. [Here are the answers to your top seven questions about the 80/20/30 rule and what you should consider doing now.](#)

Review rare PAGA win for California employers. The California Supreme Court just held that a plaintiff in one PAGA action does not have the right to intervene or object to a judgment in a similar action even if a settlement or other resolution in that similar case results in their PAGA action being entirely extinguished. The August 1 decision in *Turrieta v. Lyft, Inc.* is a solid win for employers. [Click here for the key takeaways.](#)

Learn about Illinois' new law curtailing massive damage awards in biometric cases. SB 2979, which was signed into law on August 2, amends the Illinois Biometric Information Privacy Act (BIPA) so that a separate claim no longer accrues each time a private business scans or discloses an individual's biometric information or identifier without prior written consent, but instead accrues on a more conservative one-claim-per-person standard. [Here's what Illinois employers and companies doing business in the state need to know.](#)

Review your drug testing protocols now that Ohio's recreational cannabis sales have begun. Ohio employers need to prepare now that legalized recreational cannabis sales have kicked off – and your workers will be able to legally purchase the drug throughout the state. Beginning August 6, Ohioans 21 years of age or older can purchase and possess up to 2.5 ounces of cannabis. [Click here for the six things Ohio employers should do now.](#)

Conclusion

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.

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