



Human Resources WEEKLY DIGEST

October 22, 2019

NLRB Invalidates Mandatory Arbitration Agreement That Contains No Exceptions for Filing Administrative Charges

"In June 2019, the National Labor Relations Board held in Prime Healthcare Paradise Valley, LLC that even after Epic Systems, it is unlawful to enforce arbitration agreements that interfere with the employees' right to file charges with the Board. The Board in Prime Healthcare analyzed whether the arbitration agreement explicitly, or if reasonably interpreted, prohibits charge filing with the Board. If so, the agreement violates the National Labor Relations Act. The Board recently had another opportunity to revisit the issue of mandatory arbitration agreements in Beena Beauty, 31-CA-144492." [Full Article](#)

Seyfarth Shaw



OSHA Updates on Distracted Driving in Employment and in the Workplace

"OSHA has recently released a 'Guidelines for Employers to Reduce Motor Vehicle Crashes.' OSHA states that 'every 12 minutes someone dies in a motor vehicle crash, every 10 seconds an injury occurs and every 5 seconds a crash occurs.' Many of these incidents occur during the workday or during the commute to and from work. Employers bear the cost for injuries that occur both on and off the job." [Full Article](#)

Seyfarth Shaw

In This Digest

NLRB Invalidates Mandatory Arbitration Agreement That Contains No Exceptions for Filing Administrative Charges

By, Seyfarth Shaw

Page 1

OSHA Updates on Distracted Driving in Employment and in the Workplace

By, Seyfarth Shaw

Page 1

The New Overtime Rule: What Retail Employers Need to Know

By, Constangy Brooks

Page 2

"Open" Might Not Mean Open: How FMLA May Affect a Position's Availability

By, Bradley Arant

Page 2

Effective Rules of Etiquette for RIF's

By, Shawe Rosenthal

Page 2

When Fantasy Football Impacts the Reality of the Workplace

By, DLA Piper

Page 2

State & International Compliance

Page 3

This Weekly Digest is not intended to be exhaustive nor should any discussion or opinions be construed as legal advice.

Readers should contact legal counsel for legal advice.

The New Overtime Rule: What Retail Employers Need to Know

“As most employers now know, the U.S. Department of Labor will be raising the salary thresholds that apply to most of the ‘white-collar’ overtime exemptions effective January 1. The higher thresholds will apply primarily to employees who would qualify under the executive, administrative, and professional exemptions to the overtime rules under the Fair Labor Standards Act. The threshold for these exemptions will increase from its current \$23,660 a year, or \$455 a week, to \$35,568 a year, or \$684 a week.” [Full Article](#)

Constangy Brooks

“Open” Might Not Mean Open: How FMLA May Affect a Position’s Availability

“Does a position that a company is holding for an employee out on FMLA leave an ‘open position’ as contemplated by the Americans with Disabilities Act? In *Maxwell v. Washington County*, a Mississippi federal district court said the short answer is ‘no.’” [Full Article](#)

Bradley Arant

Executive Rules of Etiquette for RIF’s

“By now most everyone has heard about the travails of WeWork arising from the swift downfall of founder Adam Neumann. If you have not heard, you are missing some fascinating stuff. A Wall Street Journal piece was first to chronicle Neumann’s manic behavior (such as pondering how to become immortal and transporting large amounts of marijuana on a private jet trip, much to the chagrin of the jet’s owner!). In the wake of these disclosures, private equity investment firms that had committed tens of millions to WeWork became skittish, a planned IPO was pulled, and a faction of WeWork board members called for Neumann’s removal as a CEO.” [Full Article](#)

Shawe Rosenthal



When Fantasy Football Impacts the Reality of the Workplace

“Many players are deep into fantasy football season, so the question is – are you having fun yet? Obviously not if you relied upon Antonio Brown or Ben Rothlisberger to carry you to glory, but many supervisors are beginning to feel the effects fantasy football can have on the workplace.” [Full Article](#)

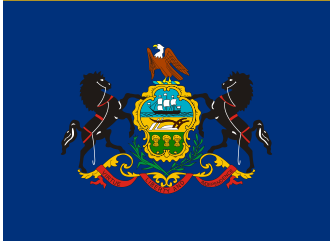
DLA Piper

This Weekly Digest is not intended to be exhaustive nor should any discussion or opinions be construed as legal advice.

Readers should contact legal counsel for legal advice.

STATE & INTERNATIONAL COMPLIANCE

PENNSYLVANIA



State Moves One Step Closer to Substantially Increasing White Collar Exemption Salary Threshold

"In June 2018 the Pennsylvania Department of Labor and Industry (DLI) issued a proposed rule to substantially increase the salary threshold to qualify as an exempt Executive, Administrative and Professional (EAP) employee under the Pennsylvania Minimum Wage Act (PMWA), and invited public comment. On October 17, 2019." [Full Article](#)

Jackson Lewis

ILLINOIS



Companies Using Video Interviews Beware: New Obligations for Positions Based in Illinois

"Increasingly, companies are using third-party digital hiring platforms to recruit and select job applicants. These products, explicitly or implicitly, promise to reduce or eliminate the bias of hiring managers in making selection decisions. Instead, the platforms grade applicants based on a variety of purportedly objective factors." [Full Article](#)

Epstein Becker Green

CALIFORNIA



Supreme Court's Decision Not to Review Arbitration Framework Means We Have a Roadmap for Compliance

"The U.S. Supreme Court just did something that was more than just a bit out of character—it rejected the opportunity to find that California had once again overstepped its bounds by creating judicial rules disfavoring arbitration. It did so by rejecting the highly watched petition for certiorari that arose from *Ramos v. Winston & Strawn*." [Full Article](#)

Fisher Phillips

CONNECTICUT

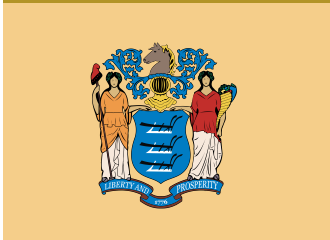


Labor and Employment Alert: State Extends its Sexual Harassment Training Mandate

"Connecticut, along with California, Delaware, Illinois, Maine and New York, require workplace sexual harassment training. Connecticut recently enacted its 'Time's Up Act' to extend its sexual harassment training requirements, require additional notification to employees, and enhance employee protections under its civil rights law. The Act became effective October 1, 2019." [Full Article](#)

Vorys Sater Seymour and Pease

NEW JERSEY



Major Changes to the State's Wage and Hour Law Pose Greater Risk for Employers

"On August 6, New Jersey enacted sweeping amendments to its wage and hour laws to create more significant consequences for employers that fail to pay employees properly or retaliate against employees who complain about improper payment of wages. For the most part, these amendments are effective immediately." [Full Article](#)

Day Pitney

This Weekly Digest is not intended to be exhaustive nor should any discussion or opinions be construed as legal advice.

Readers should contact legal counsel for legal advice.