

Weekly Digest

• December 12, 2023 •

Human Resources

Employers—Be Careful with Those Mandatory EAP Referrals!

“As part of the corrective action process, some employers require employees to go to a company-provided Employee Assistance Program (EAP). Such programs are intended to offer resources and support to employees for their personal issues on a confidential basis, at no cost to the employee. The scope of services is wide, including health, financial and social issues. And to the extent that a mandatory EAP referral is related to an employee’s health, that that can trip up employers, as a recent announcement from the Equal Employment Opportunity Commission highlighted.” [Full Article](#)

Shawe Rosenthal LLP



An Applicant’s Family Medical History? Apparently, That’s the Million Dollar Question!

“As most employers (hopefully) know, the Americans with Disabilities Act sets forth strict guidelines for when employers can require employees or applicants to undergo medical examinations or when they can ask questions that might reveal a disability. And the Genetic Information Nondiscrimination Act restricts what employers can ask about the applicant/employee’s family medical conditions.” [Full Article](#)

Shawe Rosenthal LLP

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State Compliance Updates

How Organizations Can Prepare for the DOL \$55K Overtime Rule

"The Department of Labor has proposed new rules that, if adopted, would update the regulations to reflect new compensation requirements for employees who are exempt from overtime pay. The proposed rule increases the Fair Labor Standards Act (FLSA)'s regulatory salary threshold for overtime eligibility from about \$35,000 to about \$55,000." [Full Article](#)

Powers Pyles Sutter & Verville PC



It's the Holiday Season, and the NLRB is the Union-Friendly Gift That Keeps on Giving

"As we reflect on the many decisions that the National Labor Relations Board (NLRB or the Board) has handed down this year (many of which are unfavorable to employers), now is the perfect time to ensure that your organization is up to date on the most impactful cases of the year and the NLRB's controversial position on certain issues." [Full Article](#)

Baker Hostetler LLP

Don't Be a Grinch About Holiday Celebrations

"Deck the halls with boughs of holly....well maybe not at work. While some employers embrace the holiday season, others may choose not to celebrate to avoid legal issues. However, celebrating the holidays can be a great way of fostering a positive culture or sense of community in the workplace. Here are some practical tips on how employers can grow their hearts this holiday season without upsetting all the Whos in WhoVille." [Full Article](#)

Dickinson Mackaman



Can AI Provide the Magic Medicine for Corporate Cutting?

"Spotify announced this week, through a very public memo to its employees, its plan to layoff about 17% of its workforce. In so doing, Spotify joins a number of other technology companies that have recently announced restructuring plans on the heels of overly robust pandemic-driven hiring." [Full Article](#)

Mintz Levin Cohn Ferris Glovsky and Popeo PC

STATE COMPLIANCE UPDATES

ILLINOIS

Not to be Outdone by the State of Illinois, Chicago Passes A New Paid Leave Ordinance, Which Doubles the Amount of Paid Leave Available to Eligible Employees



"On November 9, 2023, the City of Chicago passed its Chicago Paid Leave and Paid Sick and Safe Leave Ordinance ("Ordinance"), which goes into effect on December 31, 2023, and replaces the City's current PSL Ordinance." [Full Article](#)

Michael Best & Friedrich LLP

NEW YORK

New York Governor Hochul Rejects Wholesale Ban on Non-Compete Agreements

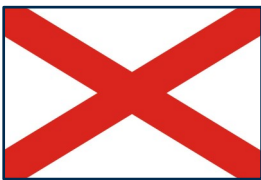


"Governor Kathy Hochul answered the long-awaited question of whether New York would join California, North Dakota, Oklahoma and, most recently Minnesota, as a state banning the use of non-compete agreements between employers and employees. While New York legislators passed a bill to do just that in June, yesterday, Governor Hochul announced that she would not be signing it." [Full Article](#)

Seyfarth Shaw LLP

ALABAMA

New Alabama Law Exempts 2024 Overtime Pay from State Taxation



"Beginning Jan. 1, 2024, hourly paid employees in Alabama will not pay any state income tax on their overtime pay. The new law effectively gives hourly employees a 5% pay raise (the state income tax rate), but it also creates new administrative and reporting requirements for their employers." [Full Article](#)

Phelps Dunbar LLP

CALIFORNIA

California Employees Entitled to up to 20 Days of Reproductive Loss Leave



"California employers with five or more employees must provide to employees who have worked for at least 30 days before the start of leave up to five days per event for each of the following reproductive loss events: miscarriage; failed adoption; failed surrogacy; stillbirth; and unsuccessful assisted reproduction (artificial insemination including gamete and embryo donation)." [Full Article](#)

Gordon Rees Scully Mansukhani LLP

MASSACHUSETTS

Massachusetts PFML Update: DFML Releases 2024 Poster and Updated Employee Notices



"The 2024 poster and updated template notice forms are now available on the Department of Family and Medical Leave's (DFML's) website. The DFML has also updated the PFML notice employers must provide to new employees to address the recent amendments to the PFML Act." [Full Article](#)

Seyfarth Shaw LLP