

A Top Ten Hot Issues In Employment Law - 2008

As always there is a lot going on in the world of employment law, consequently there's a lot to choose from when you're constructing a top ten list. Many good list candidates are lurking out there.

Taken together, the list shows that it is a tough, challenging legal compliance world right now for the business community.

Here's the list:

1. Big verdicts, big settlements – for example:

<u>COMPANY</u>	<u>AMOUNT</u>	<u>REASON</u>
Starbucks	\$100 million	Tips improperly paid to supervisors (California)
Walgreens	\$25 million	Race bias in promotions
New York Knicks (NBA)	\$11 million	Sex harassment
National law firm	\$27.5 million	Age discrimination (mandatory retirement)
Sheet Metal Worker's Union	\$6.2 million	Race and natural origin discrimination in job placement

These cases involve a lot of "big names." But big (relatively and otherwise) settlements hit smaller organizations too. A little prevention avoids a lot of litigation. Train your managers. Implement your policies.

2. Discrimination charges increased significantly in 2007 over 2006 totals (from Equal Employment Opportunity (EEOC) reports):
 - Total claims: up 9% (largest % increase since 1993)
 - Race: up 12% (highest level since 1994)
 - Sex: up 7% (highest level in six years)
 - Age: up 15%
 - Disability: up 14%
 - National origin: up 12%
 - Religion: up 13%

The discrimination charges are increasing at an even greater rate in 2008 and may set a new record. New online filing forms at the EEOC make it easier for employees, and recessions, historically, have brought increases in charges. We're still a very litigious bunch of people. Consequently, examine key HR actions, such as terminations, promotions, and corrective action. Do they meet EEO standards?

3. Retaliation claims are easier to win...more filed with the EEOC -- up 18% (record high level). Remember that a company can win its discrimination case only to lose on the retaliation claim because of something said or done. Make clear that you don't discriminate or retaliate against those who file claims or against witnesses to possible discriminatory acts.
4. Family and Medical Leave Act (FMLA) expansion now covers leave to care for family members injured in active military duty or to assist family members when preparing to go on active military duty. The final regulations should be available in the next few months. Be prepared to update your policies and forms.
5. Immigration enforcement has stepped up – more raids and I-9 audits (new form). There are higher penalties, greater scrutiny by the government, and a Utah HR person has even been charged with criminal harboring of illegal workers.
6. Minimum wage is at \$5.85/hour, and moves to \$6.55/hour on 7/24/08 and, \$7.25/hour on 7/24/09. This may create wage problems even regarding more highly paid members of your workforce as wage compression may result. Such increases also raise media attention, regarding wage and hour issues, and generally make employees more sensitive to overtime and other claims.
7. Wage, break, overtime pay, and other compensation-related class action suits against employers continue to be significant, resulting in large attorney fees, use of time resources, and exposure to liability. Consider taking the time to regularly audit your compliance with the Fair Labor Standards Act and related state law.
8. There is increased legislative activity – proposals include: expand FMLA; expand ADA; add to list of protected classes (genetic status; sexual orientation); prohibit employment arbitration; mandated paid leave; and reduced abuse of independent contractor status.
9. Technology is a growing issue for employers. Dealing with internet use, email, and cell phones while driving remain a challenge. Camera cell phones at work, employee blogs, and video resumes are the newest issues.
10. FMLA/ADA/Worker's Compensation day-to-day compliance and staying out of the "Bermuda Triangle" of employment law is an oldie but a goodie that remains a nightmare for most HR people. The law keeps changing as the case law keeps evolving

Interested in reprinting the above information?

As a service to the human resource community, we are pleased to allow our white papers to be reprinted. However, when reprinting this article, you must maintain the accuracy and intent of the content, and you must include a final credit paragraph which includes our name, HRN Management Group, and a link to our site at www.hrnonline.com. Need text version? Let us know.

HR Suite – A Complete HR Compliance Solution

Is Your Employee Handbook and Company Policy Manual Up To Date and Legally Compliant?

Be Sure. Keep up with the
constant changes affecting your
employees and organization.

www.hrnonline.com/hrs_about.asp