SNIFFEN & SPELLMAN, P.A.

LABOR AND EMPLOYMENT LAW ALERT
May 2024

Department of Labor Sets Sights on Higher Minimum Salary Threshold

On April 23rd, the Department of Labor issued a final rule that will raise the minimum salary threshold for employees considered exempt under the Fair Labor and Standards Act ("FLSA") nationwide. Effective July 1, 2024, employees must be paid a minimum salary of $43,888 or be entitled to receive overtime for working more than forty hours per week pursuant to the FLSA. On January 1, 2025, this minimum salary threshold will increase to $58,656. While we anticipate challenges to this rule, none have been filed at this time and it is highly recommended that you analyze your current workforce to determine if any of your employees fall below this threshold.

To read more, please refer here.

11th Circuit Rules That Insurer Discriminated in Refusing to Provide Gender Affirming Care to Transgender Employee

On May 13, 2024, the Eleventh Circuit Court of Appeals issued an opinion related to the payment of medical care for employees who have gender dysphoria. In this case, the employee was enrolled in a health plan through her employer and sought to undergo gender-affirming care. The health plan refused to pay for this treatment, and the employee filed suit under Title VII of the Civil Rights Act of 1964, essentially stating that due to her gender dysphoria they were refusing to provide her with gender-affirming care. At trial, the District Court issued a permanent injunction against the health plan provider, requiring it to provide gender affirming care to participants in the program with gender dysphoria. This ruling was affirmed on appeal to the Eleventh Circuit, who stated that by excluding gender affirming care, the health plan provider was discriminating against participants based on their sex.

To read more, please refer here.

Florida Loses Appeal Blocking Stop W.O.K.E Act

In a recent decision by the Eleventh Circuit, an injunction blocking the enforcement of the Stop W.O.K.E. Act was upheld by the Eleventh Circuit Court of Appeals. The Stop W.O.K.E. Act prohibits employers from providing mandatory training to employees on a number of subjects which include those that promote the moral superiority, inherent racism, privilege, and a number of other inherent qualities of an individual on the basis of race, country of origin, color, or sex. In upholding the injunction, the Court noted that this was a violation of the right to free speech guaranteed by the First Amendment, as it is a state-sponsored content-based restriction on speech, is presumptively unconstitutional. While the State of Florida has attempted to categorize this as a restriction on content as opposed to speech, the Eleventh Circuit was not persuaded by this

argument. Indeed, the Court compared Florida's stance to other "conduct" that the state could then regulate, such as riding on a parade float with a distasteful banner or pulling chairs into a circle to discuss a book disfavored by the government. While this case is still ongoing, it appears unlikely that the Courts will favor the prohibitions placed on employers through the Stop W.O.K.E. Act.

To read more, please refer here.

OSHA To Issue New Rules on Heat Safety and Issues Warning About Inspections

As we head into summer, the Occupational Safety and Health Administration ("OSHA") has issued a warning regarding heat exposure in the work environment, stating that it would begin seeking rulemaking to address heat related hazards in the workplace and would continue its ongoing inspection and enforcement efforts to address heat related hazards in the workplace. Importantly, OSHA's list of high-hazard industries for heat related issues includes manufacturing, agriculture/ranching, construction, warehousing, and other industries where work is performed outside or inside without air conditioning. However, OSHA has specifically announced that it would be targeting agricultural industries that employ individuals through H-2A non-immigrant visas for seasonal labor, and has stated that employers should, at a minimum provide adequate cool water, rest breaks, and shade, as well as staged integration into the workplace so new employees can gradually get used to working in high-heat environments.

To read more on this issue, please refer here.

Supreme Court Clarifies When a Transfer Qualifies as Discrimination

On April 17, 2024, the U.S. Supreme Court issued a ruling in *Muldrow v. City of St. Louis, Missouri,* clarifying when a transfer can qualify as discriminatory conduct under Title VII. In this case, a police Sergeant was re-assigned from the Intelligence Division where she worked on high-profile cases alongside the FBI to the Fifth District by an Interim Police Commissioner, resulting in a different work schedule, different responsibilities, and the loss of special FBI related privileges. Before both the lower court and the 8th Circuit Court of Appeals, her claims were rejected, as they did not qualify as either an "adverse employment action" or a "materially adverse action" as, aside from what was listed above, there was not a "significant harm" to the terms and conditions of her employment. The Supreme Court, in an opinion in which all the Justices concurred, stated that Title VII does not have a requirement that an employment action show significant harm to employees, only that some harm exist. While it is unclear how this will be interpreted by the Courts at this time, this subtle shift from significant to some harm will undoubtedly be litigated extensively in years to come.

To read more, please refer here.

Firm News

The Firm sponsored the Welcome Table at the 2024 Great Pensacola Society for Human Resource Management (GRSHRM) Legal Conference on May 8, 2024.

Past Issues of the Labor and Employment Law Alert Available on Website

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