

A Look Ahead/A Look Back

An Update on Labor & Employment Laws

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Agenda

- Federal & Local Case Law Update
- Maine Legislative Update
 - Maine Equal Pay Act
 - Maine Paid Family Medical Leave
 - Captive Audience Ban
- Federal Legislative Update
 - Pay Transparency
 - EEOC Guidance: Wearable Technology
 - FTC Non-Compete Ban
- What is on the Horizon for the Trump Administration in 2025?

Supreme Court Case Law

- *Muldrow v. City of St Louis*, 601 U.S. 346 (2024)
 - Employees no longer need to demonstrate significant harm, such as pay cut or demotion to pursue discrimination claim under Title VII. Showing any adverse effect on terms of conditions of employment sufficient.
- *Murray v. UBS Securities LLC*, 601 U.S. 23 (2024)
 - Clarified burden of proof required for Sarbanes-Oxley whistleblowers bringing retaliation claims.
- *Loper Bright Enterprises v. Raimondo*, 603 U.S. 369 (2024)
 - Struck down Chevron doctrine, altering deference given to federal agencies' interpretations of statutes.
 - Extensive effect on federal regulations issued by DOL and EEOC.

Other Federal Case Law

- *Su v. Bevins & Son, Inc.*, US District Court, D. Vermont (May 7, 2024)
 - Court ruled free speech does not protect employers from consequences when they publicly disparage an employee exercising their legal rights.
- *Cerda v. Blue Cube Operations LLC*, 5th Circuit (March 13, 2024)
 - Termination lawful after employee failed to properly request FMLA leave or follow company policy even though entitled to FMLA protections.
- *Mobley v. Workday, Inc.*, Northern District of California (July 12, 2024)
 - Addressed liability when AI-powered hiring algorithms discriminate against applicants based on protected characteristics.

Local Case Law

- *Brocko v. University of Maine System* (Me. Jan. 25, 2024) – Analysis of fee basis exemption standard
- *DraftKings Inc. v. Hermalyn* (1st Cir. Sept. 26, 2024) – Enforced non-compete against CA resident because employee signed agreement while working remotely for former MA employer, traveled regularly to MA for work, and performed no work in CA.
- *Vargas v. Riverbend Management LLC*. (Me. Apr. 18, 2024) – Clarified standards for determining employer responsibility for employee actions.
- *Mundell v. Acadia Hospital Corp.* (1st Cir. Feb. 1, 2024) – ME Equal Pay Act does not require plaintiffs to prove employer intended to discriminate on basis of sex.
- *John Doe, M.D. v. MaineGeneral Medical Center, et al.* (D. Me. Aug. 28, 2024) – Court denied plaintiff request to remain anonymous in litigation in race discrimination and whistleblower retaliation case.

State Updates

- **Enforcement of Wage & Hour Violations (L.D. 372)**
 - Approved by Governor April 22, 2024
 - Effective 7/16/2024
 - Empowers Maine DOL to proactively enforce wage and hour laws, even without a filed complaint.
- **Salary Threshold for Exempt Employees**
 - Effective January 1, 2025
 - Salary threshold to determine if an employee is exempt from overtime provisions of the law: \$43,951 per year or \$845.21 per week.

State Updates Cont.

- **Minimum Wage Increase**

- Effective January 1, 2025
- Increasing from \$14.15 to \$14.65 per hour
- New “Tip Wage,” or service employee minimum wage = \$7.33 per hour
 - Amount of tips necessary to qualify as a service employee increasing from \$179 per month to \$185 per month.
- Local Ordinances:
 - Portland & Rockland have set higher minimum wages at \$15.00 per hour

Maine Paid Family Medical Leave

- **Title 26 §§ 850-A – 850-R**
 - Payroll contributions commence January 1, 2025
 - 1% payroll tax, split between employers and employees
 - Starting May 1, 2026, eligible employees can receive up to 12 weeks of paid leave per year.
 - Eligibility:
 - Program covers all public and private sector employees, including full-time and part-time workers, regardless of employer size.
- **Federal Interactions (Federal Paid Family & Medical Leave)**
 - Concurrent Leave Usage
 - Eligibility Differences
 - Benefit Disparities

Maine Equal Pay Act

- Amendment expanded scope to prohibit wage discrimination on Race (in addition to sex).
- First Circuit- Court of Appeals (Mundell v. Acadia Hospital Corp.)
 - Clarified that Maine Equal Pay Law imposes strict liability on employers for wage disparities based on sex or race.
 - Employers not required to prove discriminatory intent to establish violation.
 - The mere existence of a wage disparity for comparable work is sufficient to hold an employer accountable.
- Employers must ensure equal pay for comparable work with permissible pay differentials only based on seniority, merit, or shift differences.
- Locality is not one of the three enumerated reasons to permissibly pay different wages for comparable work.

Maine Captive Audience Ban

- In 2023, Maine enacted legislation prohibiting employers from requiring employees to attend meetings where the employer expresses opinions on religious or political matters.
- CA & CT have also implemented similar bans.
 - Two CA business groups have filed a lawsuit challenging state's new ban.
- No litigation in Maine but watching other litigation will be telling.

Pay Transparency

- Growing trend toward pay transparency across the US with state-level initiatives.
- 2024 Developments:
 - Washington, D.C.
 - Early March 2024 – Amended wage transparency law, requiring employers to include minimum and maximum projected pay ranges in all job listings & position descriptions.
 - Hawaii
 - Effective Jan. 1, 2024 – Hawaii mandates employers with 50 or more employees disclose salary ranges or hourly rates in job postings
 - Massachusetts
 - July 2024 – Enacted pay transparency law applicable to businesses with more than 24 employees.

Updated EEOC Guidance: Wearable Technology

- Definition: Wearables are digital devices with embedded sensors worn on the body to monitor movements, collect biometric data, and track location.
- Guidance:
 - Potential Discriminatory Practices
 - Reasonable Accommodations
 - Best practices:
 - Policy Development
 - Data Confidentiality

Non-Compete Law Updates

- **FTC Proposed Ban**
 - In April 2024, FTC issued final rule aiming to ban nearly all non-compete clauses in employer-employee contracts nationwide.
- **Litigation**
 - Prompted almost immediate legal challenges
 - August 20, 2024, a federal judge in Texas blocked the ban, ruling that the FTC exceeded its authority.
 - FTC Currently appealing in US Court of Appeals for 5th Circuit
 - Also litigating in 11th Circuit
- **Trump Administration Note:**
 - If not for “ten rules out for every one rule in” could see change

Anticipated Trump Administration Changes:

- Independent Contractor Classification
- Overtime Pay Regulations
 - Salary Exempt Level
- Workplace Safety Standards
 - Heat Injury & Illness Prevention
- DEI Policies
- Immigration and Work Visas
 - Expected to narrow criteria for H-1B visas and other work visas
- Federal Workforce Restructuring

QUESTIONS?

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