

Employment Law This Week- 2/19/2018: Delivery Driver Ruled Independent Contractor, Parental Leave Proposal, Federal Contractor Audits, Ambush Election Rules [VIDEO]

Article By:

George Carroll Whipple, III

We invite you to view *Employment Law This Week* - a weekly rundown of the latest news in the field. We look at the latest trends, important court decisions, and new developments that could impact your work.

This week's stories include ...

(1) Federal Judge Rules GrubHub Driver Is Independent Contractor

Our top story: A first-of-its-kind ruling on the gig economy. A California federal judge has ruled that a former GrubHub delivery driver was an independent contractor, not an employee. The judge found that the company did not have the required control over its drivers for the plaintiff to establish that he is an employee. This decision comes as companies like Uber and Lyft are also facing lawsuits that accuse them of misclassifying employees as independent contractors. Carlos Becerra has more:

“The federal judge, at the motion for summary judgment hearing, at trial, and in her opinion, made clear that this was the first instance in which a gig economy company was going to have their model tested of their professional services agreements to determine whether or not their workforce was actually an independent contractor versus employee. Employers in the state of California who participate in the gig economy are going to have more clarity as to the fine line they need to walk in ensuring that they have a sufficient labor workforce to meet the needs of their customers during high demand periods. But, as with anything, when you're walking these fine lines, you want to ensure that you have adequate labor counsel to assist you in this regard.”

For more, click [here](#)

(2) New Parental Leave Plan Draws from Social Security

Want paid parental leave? Tap into your Social Security. Senator Marco Rubio and other congressional Republicans are drafting a bill based on a proposal from the conservative Independent Women's Forum. Under IWF's plan, new parents could take 12 weeks of paid leave in exchange for a 6-week delay in retirement age for Social Security benefits. Proponents of the plan note that this would not cost employers or the federal government. Opponents see it as a major cut to Social Security and argue that it would disproportionately harm women.

For more, click [here](#)

(3) DOL Warns Contractors of Coming Audits

Audits are coming for federal contractors: The U.S. Department of Labor's Office of Federal Contract Compliance Programs (OFCCP) has issued Corporate Scheduling Announcement Letters to 1,000 federal contractors. These letters notify the recipients that they should prepare for audits of their compliance with federal regulations that ensure equal employment opportunity and promote affirmative action. These letters are not formal audit notices, but rather advance notice that the company has been selected by the Federal Contractor Selection System for compliance review. The OFCCP has also announced a return to voluntary annual caps on audits, which were implemented under former President George W. Bush and removed during the Obama administration.

For more, click [here](#)

(4) NLRB Issues Request for Information on "Ambush Election" Rules

The National Labor Relations Board ("NLRB" or "Board") has extended the deadline for providing feedback on changes made to rules for union representation elections in 2014, including the controversial "ambush election" rules. Late last year, the Board issued a formal Request for Information over the strong objection of two members, both Democrats. They see this as the predicate for an attempt to roll back the rule. Policy discussions like this one come as the cost of enforcing employment regulations takes center stage in Federal budget discussions. The president has proposed significant cuts to the DOL, the NLRB, and the EEOC, and all three agencies may need to make do with less in the near future. Critics have argued that the proposed cuts may be intended to limit the agencies' ability to carry out their missions.

(5) Tip of the Week

Leslie Julich, Vice President of Human Resources for International Cosmetics & Perfumes, Inc., is here with tips for jumpstarting creative employee benefits programs:

"Employers across the nation are looking at creative ways to spend their benefits dollars. And my advice for them is to take a look first at your demographics. Step two, create an employee survey. And the one cautionary point that I would make is that when you go ahead and create the employee survey, it is important that you don't list every possible creative option out there, because you want to be able to deliver on at least some of what the employees want. So then the third step is, take a look at the survey results and decide what's feasible for you to implement."

Carlos Becerra contributed to this post.

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