

## HUNTON EMPLOYMENT & LABOR PERSPECTIVES™

HELP / ANALYSIS & DEVELOPMENT IN EMPLOYMENT & LABOR ISSUES

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- [NLRB Issues Final Rule on Expedited Representation Case Procedures](#)
- [NLRB Reverses Register Guard; Grants Workers Right To Use Employer Email System For Section 7 Purposes](#)
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### [Paid Sick Leave, Anti-Bullying Training, Joint Employer Liability - Are You Ready For These And Other Changes To California Employment Laws?](#)

December 19, 2014

As is often the case, the coming new year brings a slate of new requirements for California employers to grapple with. Employers should have these developments on their radar to ensure compliance in 2015 and beyond.

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### [NLRB Issues Final Rule on Expedited Representation Case Procedures](#)

December 18, 2014

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The National Labor Relations Board announced its Final Rule governing union representation case procedures, claiming that such Rule aims to “remove unnecessary barriers to the fair and expeditious resolution of representation questions.” Specifically, the Rule claims to “streamline Board procedures, increase transparency and uniformity across regions, eliminate or reduce unnecessary litigation, duplication and delay, and update the Board’s rules on documents and communications in light of modern communications technology.”

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## NLRB Reverses Register Guard; Grants Workers Right To Use Employer Email System For Section 7 Purposes

December 16, 2014

In *Purple Communications, Inc.*, a divided National Labor Relations Board held that employees have the right to use their employers’ email systems for statutorily protected communications, including self-organization and other terms and conditions of employment, during non-working time. In making this determination, the Board reversed its divided 2007 decision in *Register Guard*, which held that employees have no statutory right to use their employer’s email systems for Section 7 purposes.

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## Supreme Court Rules Waiting for and Undergoing Security Screenings Not Compensable Under FLSA

December 12, 2014

On December 9, 2014, the Supreme Court ruled in *Integrity Staffing Solutions, Inc. v. Busk* that the time spent waiting to undergo and undergoing security screenings is not compensable under the Fair Labor Standards Act (“FLSA”). U.S. Supreme Court, No. 13-433. The case involved hourly temporary staffing-agency warehouse workers who retrieved products from warehouse shelves and packaged the products for delivery to Amazon.com customers. Before leaving the warehouse each day, workers were required to undergo a security screening involving the removal of wallets, keys, and belts from their persons and passing through metal detectors.

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## OFCCP Issues Final Rule Prohibiting LGBT Discrimination For Government Contractors

December 9, 2014

The Department of Labor has announced the release of a Final Rule implementing Executive Order 13672, which prohibits discrimination

based on sexual orientation and gender identity by federal contractors and subcontractors. Executive Order 13672, signed by President Obama on July 21, 2014, amended Executive Order 11246 by adding sexual orientation and gender identity to the protected categories provided in the latter EO. The Final Rule will be effective 120 days after the date of its official publication in the Federal Register and will apply to government contracts entered into or modified after the effective date.

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## Key Labor And Employment Cases Currently Pending Before the U.S. Supreme Court

December 4, 2014

### ***Integrity Staffing Solutions v. Busk***

Oral argument was heard on October 8, 2014. This case will resolve a circuit split on whether time spent by warehouse workers going through security is paid time. The Fair Labor Standards Act, as amended by the Portal to Portal Act, does not require an employer to compensate for activities that are preliminary or postliminary to their principle work. 29 U.S.C. §254(a)(2). The district court dismissed plaintiffs' claims, but the Ninth Circuit ruled against Integrity Solutions, a contractor to Amazon.com, holding that going through security was an "integral and indispensable" part of the shift and not a non-compensable postliminary activity. The Second and Eleventh Circuits previously held that time in security screening is not compensable time. Interestingly, the U.S. Department of Labor filed an *amicus* brief on the side of Integrity Staffing.

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## Massachusetts Requires Employers to Provide Sick Leave

December 3, 2014

Last month, the voters of Massachusetts passed Ballot Question 4, which entitles all Massachusetts employees to earn and use sick leave (time). In doing so, Massachusetts became the third state to guarantee sick leave, following [California](#) and Connecticut. The Massachusetts law takes effect on July 1, 2015.

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## Florida to Increase Minimum Wage Effective January 1, 2015

December 22, 2014

The Florida Department of Economic Opportunity ("DEO") announced that the state's minimum wage of \$7.93/hour will be increased to \$8.05/hour beginning January 1, 2015. The minimum wage for tipped employees will correspondingly increase from \$4.91/hour to \$5.03/hour,

with the employer's maximum tip credit remaining at \$3.02/hour. The DEO has also issued an updated "Notice to Employees" poster which Florida employers are required to post in addition to the federal minimum wage poster as of January 1, 2015.

Minimum wage increases have experienced much activity in 2014. In addition to our previous posts covering wage hike proposals on the [city](#) and [federal](#) levels, more than 20 states have either increased or proposed to increase their respective minimum wage.

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