

HUNTON EMPLOYMENT & LABOR PERSPECTIVES™

HELP / ANALYSIS & DEVELOPMENT IN EMPLOYMENT & LABOR ISSUES

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California Appeals Court Finds "Sun Worshipping Atheism" Not a Religion

April 27, 2015

The Fourth District California Court of Appeal recently held that a Department of Corrections employee's claim that he was constructively discharged after being discriminated against on the basis of his religion—"Sun Worshipping Atheism"—was properly dismissed. Marshal Copple is the founding and only member of a religion he calls Sun Worshipping Atheism, the core tenets of which include: praying in the sun; taking in fresh air on a daily basis; sleeping at least 8 hours per day; eating and drinking when necessary; frequent exercise; daily rest; and engaging in frequent social activities.

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Seventh Circuit Reins in Overtime in *Alvarado v. Corporate Cleaning Serv., Inc.*

April 22, 2015

On April 1, 2015, the U.S. Court of Appeals for the Seventh Circuit decided *Alvarado v. Corporate Cleaning Serv., Inc.*, 2015 WL 1456573 (7th Cir. Apr. 1, 2015), an important decision interpreting the Fair Labor Standards Act's overtime requirements. The plaintiffs in the case were twenty-four (24) window washers employed by a company servicing commercial skyscrapers in the Chicago area. The plaintiffs argued they had not been paid certain overtime wages under the Act. The company, CCS, admitted it had not paid overtime, but argued that an exemption applied in the case to the FLSA's overtime requirements.

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Virginia Becomes the Next State to "Ban the Box"

April 15, 2015

On April 3, 2015, Virginia Governor Terry McAuliffe signed an [Executive Order](#) that "bans the box" and prohibits Virginia agencies, boards, and commissions from asking questions about an applicant's criminal history on employment applications.

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Health Care Reform - Updated Employer Compliance Timeline and Checklist

April 10, 2015

The government has continued to issue a number of regulations and other guidance on the Patient Protection and Affordable Care Act (PPACA) and related health care laws, including the following:

- Final regulations on the use of "bona fide orientation periods" in coordination with waiting periods for health care coverage;
- IRS forms and instructions regarding reporting of health care coverage by health plans and large employers;
- Updated proposed rules on the required Summary of Benefits and Coverage;
- Guidance regarding use of "skinny plans"; and
- Preliminary guidance on the "Cadillac" tax on high-cost health plans.

We have developed a compliance reference tool to assist employers in developing a better understanding of what is required under PPACA and the required timeframe for any applicable changes. This tool contains a timeline/checklist, along with an appendix providing additional information on many of the requirements (which are linked to the timeline/checklist for easy access). See the most [recent version](#), which has been updated as of the beginning of April 2015.

SEC Brings First Enforcement Action Warning Employers Against Imposing Confidentiality Terms That Could Deter Whistleblowers

April 9, 2015

On April 1, 2015, the US Securities and Exchange Commission brought its first enforcement action against a company for asking employees to agree to confidentiality terms during internal investigations.

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The United States Supreme Court's Decision in *Perez v. Mortgage Bankers Association* and its Potential Impacts on Federal Agencies' Rulemaking Authority

April 6, 2015

Federal agencies need not go through the formal and drawn-out “notice-and-comment” process when altering an interpretation of a regulation. In a unanimous decision, the Supreme Court in *Perez v. Mortgage Bankers Association* stated that the Administrative Procedure Act (the “APA”) does not mandate notice-and-comment rulemaking for interpretive rules. In doing so, the Supreme Court overturned the doctrine established by the D.C. Circuit’s 1997 decision, *Paralyzed Veterans of America v. D.C. Arena L.P.*, 117 F.3d 579 (D.C. Cir. 1997), which had held that an agency must use the APA’s notice-and-comment procedures prior to issuing a new interpretation of a regulation that deviates significantly from a definitive interpretation the agency had previously adopted. In *Perez*, the Supreme Court addressed the question of whether the *Paralyzed Veterans* doctrine was consistent with the APA, ultimately finding that it was not.

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Countdown to an Ambush

April 2, 2015

If your company did NOT attend our recent webinar concerning the new Ambush Union Election rules, then please [READ ON](#):

Conflicting Provisions in Arbitration Agreement Puts Employer Back in Court Litigating Representative and Class Claims

April 1, 2015

A California appellate court recently invalidated an arbitration agreement that an employee had voluntarily entered into on the basis that it contained an unenforceable waiver of the employee’s claims under the California Private Attorneys General Act (“PAGA”) and, under

the parties' agreement, that provision could not be severed.

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