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Client Bulletin

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Ohio's Changes to Workers' Compensation Liability for Remote Workers

In Ohio, the General Assembly recently revised the workers' compensation law to address the question of whether remote employees are entitled to workers' compensation benefits if they are injured by working remotely. H.B. 447 redefines what a compensable injury is under the workers' compensation system. The law specifies that an injury does not include an injury or disability sustained by an employee who is performing their job duties in a work area inside their home that is separate and distinct from the location of the employer, unless all of the following apply:

1. The employee's injury or disability arises out of the employee's employment.
2. The employee's injury or disability was caused by a special hazard of the employee's employment activity; and
3. The employee's injury or disability is sustained in the course of an activity undertaken by the employee for the exclusive benefit of the employer.

This new law makes it more difficult for employees to make a compensable workers' compensation claim for an injury sustained while working at home. Nonetheless, an employee's eligibility for workers' compensation benefit is very much determined by the facts of each case. Employers who dispute if or how an alleged work-from-home injury occurred are only permitted to dispute the claim in the beginning when the claim is first filed. Employers who are dealing with employees who are allegedly injured while working at home are strongly encouraged to seek legal counsel immediately.

Stacy V. Pollock, of Counsel

Settlement Agreements Involving Sexual Harassment or Sexual Assault Claims Now Potentially Unenforceable

In yet another recently enacted federal law, employers are now prohibited from enforcing non-disclosure and non-disparagement clauses in certain settlement agreements. The Speak Out Act renders unenforceable settlement agreements' non-disclosure and non-disparagement clauses related to allegations of sexual assault and/or sexual harassment if the settlement agreements are entered into "before the dispute arises." In other words, these provisions are unenforceable once an allegation of sexual assault and/or sexual harassment is made against an employer. The unenforceability extends to non-disclosure clauses which require the parties in the agreement to not disclose or discuss conduct or the existence of a settlement involving the alleged conduct. The unenforceability also extends to non-disparagement clauses which require a party to the agreement to not make a negative statement about another party that relates to the agreement or the underlying case. In light of this new law, employers should review their employment agreement, confidentiality agreements, and employee handbooks to ensure they remain in compliance with the law.

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This bulletin provides general information and is not legal advice. Please contact us if you need legal advice.

If you have friends or associates whom you think would enjoy receiving a copy of this Client Bulletin, please feel free to forward it on. Thank you.

Law Protecting Breastfeeding Mothers Expanded

The law protecting breastfeeding mothers previously required employers to provide certain employees with a place, other than a bathroom, that was shielded from view and free from intrusion from coworkers and the public, which may be used by an employee to express breast milk. Under the prior law, employers must also provide a reasonable break time for their employees to pump for up to one year after the birth of their child. However, due to how the law was written, the law only applied to employees who are entitled to overtime pay under the Fair Labor Standards Act (“FLSA”).

In December, the bipartisan Providing Urgent Maternal Protections (“PUMP”) for Nursing Mothers Act added to the law by expanding these rights and protections for FLSA overtime-exempt employees as well. The new law also permits employees to immediately file a lawsuit if employers indicate their unwillingness to comply with the law or if the employer violates the break time requirement. However, if an employer has not provided adequate space to pump, employees must notify the employer, and the employer has 10 days to comply with the law. Employers should ensure that they are now providing these accommodations to all employees, if necessary.

Stacy V. Pollock, of Counsel

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For 2023, Dennis L. Pergram and Stephen D. Martin have been rated AV-Preeminent®. Congratulations to them both.