



FENWICK & WEST LLP

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Out With The Old, And In With “Garbage” At The EEOC?

Employer allegedly tells a senior manager to get rid of the older people in his division. Why? Because, according to the employer, older employees lack motivation. This would usually be dream evidence of age discrimination for the EEOC, the federal agency that investigates discrimination claims. Except this time, the EEOC is the employer, and several of its attorneys in Georgia are the older employees. Even more disturbing for employers are the plaintiff's allegations that the agency has a pattern of prosecuting “garbage” cases. The older attorneys claim that the EEOC has increased emphasis on the quantity, as opposed to the quality, of discrimination cases filed. The attorneys claim that the EEOC is trying to push them out because younger attorneys may be more willing to go along with the agency's new emphasis on quantity.

Congress Repeals Clinton Labor Regulations

Controversial ergonomics regulations have ground to a halt in the U.S. Congress. Using an obscure federal law that allows Congress to overturn Executive Branch federal regulations, the House and Senate voted last week to block an ambitious series of ergonomics regulations issued by the outgoing Clinton administration. President Bush has promised to sign the Congressional resolution. The overturned regulations would have required employers with more than two ergonomic injuries in any 18 months to adopt costly screening and prevention programs.

Sign Of The Times: Low-Level Insurance Claim Representatives Pursue Successful Class Action Overtime Claim

They can only settle claims of \$15,000 or less. However, a class of frontline insurance claim representatives may be set to recover millions after a controversial ruling from the California Court of Appeals. In *Bell v. Farmers Insurance Exchange*, the court ruled that claims representatives working at branch claims offices were “production”, not “administrative,” workers and thus entitled to overtime pay. The court ruled that the claims representatives simply carried out the “business function” of adjusting claims, and that they lacked the discretion that claims “managers” had to settle large or complex claims. Although the specific ruling in the case is limited to claims representatives who were misclassified as exempt, other “assembly-line” customer service operations may be affected by the ruling. The case is also a reminder to California employers that misclassification of non-exempt employees can be costly.

WEB Update: Equal Opportunity Survey Deadline Now May 31

Last month we reported that the Office of Federal Contract Compliance Programs (OFCCP) granted federal contractors an extension of time in which to file the agency's “Equal Opportunity Survey.” Since then, OFCCP has granted contractors an additional month extension, pushing the deadline back to May 31, 2001. Contractors have criticized the survey as unnecessary and burdensome.

Title VII Protects WWF Wrestler

Even professional wrestlers are entitled to a workplace that is not “hostile.” This was the ruling of a federal trial court in New York, which allowed a claim by a female professional wrestler who alleged sexual harassment. Much of the harassment occurred off-stage, when male co-workers allegedly groped the plaintiff and threatened her. However, in one bizarre incident, the plaintiff charged that she was struck with a guitar during a wrestling match-an event that was in the match’s “script”-but that the guitar was not properly “fixed” to crumple when it hit her. As a result, the plaintiff was injured and required medical attention. According to the trial court, there was enough evidence of “discriminatory intimidation” to allow the wrestler’s case to go to trial. The court’s ruling is a reminder that even the roughest work settings must still meet Title VII “hostile work environment” standards.

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