



# Weekly Digest

• December 15, 2020 •

## Human Resources

### **Employee’s Own Perception of Her Performance Is Not Determinative, and What Is An Adverse Employment Action, Anyway?**

“The U.S. Court of Appeals for the Fifth Circuit reaffirmed the principle that an employee’s subjective perception of her own performance does not support a discrimination claim, while also providing guidance on the types of actions that are or are not adverse employment actions necessary to establish a discrimination claim.” [Full Article](#)

**Shawe Rosenthal**



### **Has the COVID-19 14-Day Quarantine Period Been Shortened?**

“By now, employers likely have heard the news that the Centers for Disease Control and Prevention (CDC) has reduced the length of time that individuals should quarantine after an exposure to COVID-19. The old adage “Don’t believe everything you read” turns out to be true in this case. Although the CDC has stated that shortened quarantine periods may be an option in certain circumstances, the agency continues to recommend quarantining the full 14 days, absent local health authorities determining that a shorter period is appropriate.”

[Full Article](#)

**Jackson Lewis**

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## Will Biden Ban Non-Competes?

“President-elect Joe Biden has issued a “Plan for Strengthening Worker Organizing, Collective Bargaining, and Unions” on his website, and it includes an interesting statement about what his incoming administration purportedly intends to do about non-compete and no-poach agreements: Eliminate non-compete clauses and no-poaching agreements that hinder the ability of employees to seek higher wages, better benefits, and working conditions by changing employers.” [Full Article](#)

*Seyfarth Shaw*

## EEOC Reports Record Recovery and Decrease in Pending Charges

“The Equal Employment Opportunity Commission (“EEOC” or the “Agency”) recently released its annual financial report for the 2020 fiscal year. Relevant highlights from this report include discussion of a research study was commenced to determine whether there is a correlation between unemployment during economic downturns related to COVID-19 and EEOC charge filings the EEOC’s continued focus on Alternative Dispute Resolution, and a noted reduction in the inventory of pending private sector charges.”

[Full Article](#)

*Jackson Lewis*



## Claiming Payroll Tax Credits for Paid Leave Under the Families First Coronavirus Response Act

“The paid leave requirements under the Families First Coronavirus Response Act (FFCRA) will end on December 31, but employers should take steps now to claim the associated tax credits for any required leave they provided to their employees.” [Full Article](#)

*Akerman*



## DOL Expands Religious Exemption for Federal Contractors

“More faith-based federal contractors could be shielded from anti-discrimination suits under the Department of Labor’s new rule. The rule gives organizations a clearer picture of their protections under the law. The Department of Labor’s Office of Federal Contract Compliance Programs (OFCCP) expanded a religious exemption from anti-discrimination laws for federal contractors. The new rule applies the exemption to employers that “are organized for religious purpose, hold themselves out to the public as carrying out a religious purpose, and engage in activity consistent with and in furtherance of that religious purpose.” The rule takes effect on Jan. 8, 2021.” [Full Article](#)

*Phelps*

# STATE & INTERNATIONAL COMPLIANCE

## ILLINOIS



### FDA Approval of COVID-19 Vaccines on the Horizon: Workers' Compensation Considerations for Illinois Employers

"In Illinois, an injury is compensable where it arises out of and in the course of employment. An injury can be found to "arise out of" the employment when it is the result of an activity the employer instructed the employee to perform. An employee may have a stronger claim for compensability where vaccination is mandatory or in fields where the risk of contracting the virus is higher—such as healthcare settings, janitorial services, manufacturing, grocery stores, or other essential operations." [Full Article](#) **Goldberg Segalla**

## CALIFORNIA



### A Brief Guide to California's Latest Employer COVID-19 Reporting Obligations

"California employers are now subject to three new COVID-19 related reporting obligations when there is a COVID-19 positive employee or employees in their workplaces, including: reporting to their (1) workers' compensation carrier, (2) employees and other workers, and (3) local public health authority. We address each briefly below." [Full Article](#)

**Mintz**

## WISCONSIN

WISCONSIN



1848

### Wisconsin Sets New Deadline For Employers Requesting Unemployment Charging Relief

"Under 2019 Wis. Act 185 (published on April 16, 2020), employers can request charging relief from unemployment insurance benefits for initial claims related to the COVID-19 public health emergency Governor Evers declared on March 12, 2020 by Executive Order 72. On November 30, 2020, the Wisconsin Department of Workforce Development (DWD) issued a new emergency rule addressing the process for employers to request this relief." [Full Article](#)

**Michael Best**

## MARYLAND



### Maryland's Montgomery County Amends, Expands Its 'Ban-the-Box' Law

"The original Montgomery County ordinance, which took effect on January 1, 2015, prohibits employers with at least 15 full-time employees in Montgomery County from conducting a criminal background check on a job applicant, or otherwise inquiring about the criminal or arrest history of an applicant, prior to the completion of a first interview. The new amendment significantly expands this restriction and covers smaller employers." [Full Article](#)

**Jackson Lewis P.C.**

## VIRGINIA



### Virginia Joins States That Restrict Use of Non-Compete Agreements

"Virginia recently joined a growing list of states that have passed legislation prohibiting employers from enforcing non-compete agreements against low-wage employees. Illinois, Maine, Maryland, Massachusetts, New Hampshire, Rhode Island, and Washington have already enacted similar legislation." [Full Article](#)

**Crowell Moring**