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Subject: Contentious Fair Pay Rule For Contractors Sparks Texas Suit

PUBLIC POLICY

EXPLORE WHAT'S INSIDE LEXIS PRACTICE ADVISOR

Check out the topics we cover, the forms we offer, and where our practical guidance will take you.

Wednesday, October 12, 2016

TOP NEWS

[Contentious Fair Pay Rule For Contractors Sparks Texas Suit](#)

Construction and security industry groups have sued to block the contentious Fair Pay and Safe Workplaces rule, telling a Texas federal court that the rule oversteps the executive branch's authority and unconstitutionally compels federal contractors to publicly disclose unproven allegations of labor violations.

[CFTC Proposes New Definitions For Cross-Border Swap Rules](#)

The U.S. Commodities Future Trading Commission announced on Tuesday that it has proposed a new rule to clarify who is a "U.S. person" and what is a "foreign consolidated subsidiary" for the purposes of its cross-border swap rules.

[DOT Urges DC Circ. To Uphold E-Cig Ban On Flights](#)

The U.S. Department of Transportation on Friday urged the D.C. Circuit to affirm its recently imposed ban on electronic cigarette use on commercial flights, saying it's reasonable regulation that ensures safe and adequate air transportation and protects passengers' health.

[9th Circ. Ruling Limiting Judges' Political Dealings Stands](#)

Opponents of restrictions on judges' political speech were dealt a blow Tuesday when the U.S. Supreme Court refused to review the appeal of a Ninth Circuit decision that upheld Arizona's rules barring judges from endorsing or campaigning for political candidates.

[High Court Refuses Gillette's Calif. Tax Compact Challenge](#)

The U.S. Supreme Court refused Tuesday to hear a challenge from Gillette and other companies contesting a California high court decision allowing the Golden State to diverge from an interstate agreement for calculating corporate franchise taxes, leaving intact a sales-heavy tax apportionment.

[Voting Rights Groups Join Fla. Registration Fight](#)

Voting rights groups joined the fight to extend Florida's voter registration deadline on Tuesday, one day before a federal judge will decide whether to

LAW FIRMS

Arnold & Porter
Baker Botts
Bull Houser
Chamberlain Hrdlicka
Cinnamon Mueller
Covington & Burling
DLA Piper
Davis Wright Tremaine
Dentons
Dowd Bennett
Eimer Stahl
Fox Rothschild
Garvey Schubert
Genova Burns
Grove Eisen
Hangley Aronchick
Keller and Heckman
Kline & Specter
Latham & Watkins
Littler Mendelson
Mayer Brown
Messer Caparelo
Miller Shakman
Morgan Lewis
Nabarro LLP
Norton Rose Fulbright
O'Melveny & Myers
Offit Kurman
Olswang LLP
Organ Cole

give those affected by Hurricane Matthew additional time to get on voter rolls.

ANALYSIS

Pa. Taxi, Ride-Sharing Suits Won't End Without Equal Rules

Even as Pennsylvania lawmakers ready themselves to move on legislation formally legalizing ride-sharing services like Uber and Lyft, experts say that lawsuits from traditional taxi companies claiming inequitable treatment over their app-based competitors are unlikely to abate without greater parity in how the two industry sectors are regulated.

FCC's Eased Privacy Plan Still Divides Internet Ecosystem

In its latest broadband privacy proposal, the Federal Communications Commission has moved toward an approach based on the sensitivity of customer data rather than on how it's used, but experts worry that the revised plan continues to subject ISPs to more stringent regulation than other players face.

NJ Casino Backers May Place New Bet After Campaign Woes

The recent suspension of campaign funding in support of a referendum that would allow New Jersey casinos to operate outside of Atlantic City seemed like the death knell for the measure, but a fine-tuned proposal could gain voter support in the future, gambling industry experts say.

BANKING & SECURITIES

Incentives Shouldn't Tempt Bank Staff To Break Laws: NYDFS

New York-regulated banks should ensure that no employee incentive arrangements encourage inappropriate conduct, the state Department of Financial Services said in a guidance letter Tuesday.

Hong Kong, Shenzhen Bourses Closer To Linking Markets

Two Hong Kong stock exchange affiliates signed agreements with the Shenzhen Stock Exchange and China Securities Depository & Clearing Corp. Ltd. on Tuesday, moving one step closer to establishing mutual stock market access between Shenzhen and Hong Kong.

Budget Legislation Doesn't Extend EB-5 Program, Suit Says

The federal government didn't actually extend the EB-5 investor pilot program beyond its expiration date when President Barack Obama signed H.R. 5325, a nonprofit organization claimed in a suit filed Friday in Texas federal court, saying the budget legislation didn't specifically name the program.

HEALTH & LIFE SCIENCES

Sugary Drink Taxes Effective, WHO Report Shows

A new report on the effectiveness of fiscal policy interventions to improve diets and prevent certain diseases shows that taxing sugary foods and drinks would lead to a decrease in consumption, the World Health Organization said on Tuesday.

TRANSPORTATION & INFRASTRUCTURE

Uber Beats St. Louis Taxi Drivers' Suit Over Fingerprint Regs

A Missouri federal judge dismissed a proposed class action from taxi drivers

Paul Weiss
Perkins Coie
Schulte Roth
Sidley Austin
Silverstein & Pomerantz
Step toe & Johnson LLP
Sutherland Asbill
Wigdor LLP
ZwillGen PLLC

COMPANIES

AT&T Inc.
Abercrombie & Fitch
American Bar Association
American Beverage Association
American Cancer Society Inc.
Anheuser-Busch Inbev SA/NV
Association of Corporate Couns
BTI Consulting Group Inc.
Bank of America Corporation
CPI Corporation
CTIA
Carfax Inc.
Comcast Corporation
Craig Tribal Association
Dollar Tree, Inc.
Doral Financial Corporation
ESPN Inc.
Express Scripts, Inc.
Facebook
Florida Bar Association
Goodyear Tire & Rubber Co.
Google Inc.
Health Net, Inc.
Hong Kong Exchanges and
Clearing
Illinois Transportation Trade
Association
Institute for Justice
International Business Machine
Corporation
International Dairy Foods
Association
Kimberly-Clark Corporation
Litigation Management Inc.
Lyft Inc.
MSCI, Inc.

accusing Uber of stealing business from them by intentionally flouting St. Louis regulations requiring all for-hire drivers to get fingerprinted and obtain commercial drivers' licenses, according to an opinion made public Friday.

7th Circ. Sides With Ride Hailing Cos. In Regulatory Spat

The Seventh Circuit has found Chicago's separate regulations for the city's taxicab companies and ride-hailing services, including Uber Technologies Inc. and Lyft Inc., not to be prejudicial, saying that the entrance of new competitors into the market is not an unconstitutional taking of property of the Illinois Transportation Trade Association without compensation.

GWB Defendant Spoke To Christie About Closures, Atty Says

A defense attorney in the George Washington Bridge lane-closing trial suggested Tuesday that New Jersey Gov. Chris Christie spoke with one defendant about the lane closures before they occurred and while they were underway, and that he later lied to his senior staff when he yelled at them to provide information about the matter.

REAL ESTATE

NY AG Awards Grants Targeting 'Zombie Properties'

New York Attorney General Eric T. Schneiderman on Tuesday said that his office has awarded \$12.6 million in grants to help 76 municipalities in the state combat so-called zombie properties, which have been abandoned and left vacant during foreclosure.

EMPLOYMENT

Departing EEOC GC Proud Of Work To Solidify LGBT Rights

Reflecting on his tenure at the U.S. Equal Employment Opportunity Commission, David Lopez, the agency's longest-serving general counsel, praised its ongoing work on LGBT issues and expressed optimism Tuesday about increasing gay rights protections in the workplace.

PRODUCT LIABILITY

E-Cig Makers Grilled On Challenge To FDA Rules

Makers of electronic cigarettes faced a skeptical D.C. federal judge Tuesday, who questioned their arguments that the Food and Drug Administration cannot apply tobacco rules to their products.

GOVERNMENT CONTRACTS

Army Accused Of Price Bamboozle In \$40M Staffing Contract

The U.S. Army swindled veteran-owned Global Dynamics LLC into raising its bid price for a medical staffing contract only to pick Global Dynamics' cheaper competitor, the company said on Tuesday in a new \$40 million lawsuit in the Court of Federal Claims demanding that it be awarded the work.

Obama Renews Push For Manned Mars Mission

President Barack Obama on Tuesday renewed a call to send manned missions to Mars by the 2030s, highlighting the federal government's recent work with commercial partners on technology to launch and sustain astronauts for missions into deep space.

Morgan Stanley

Mylan NV

NBCUniversal Inc.

National Association of
Manufacturers

National Milk Producers
Federation

Netflix Inc.

New York City Bar Association

New York Daily News Co.

New York University

Novo Nordisk A/S

PepsiCo Inc.

Reebok International Ltd.

Shanghai Stock Exchange Ltd.

Shenzhen Stock Exchange

Sigma-Aldrich Corporation

Sonoco Products Co.

St. Louis Metropolitan Taxicab
Commission

The DIRECTV Group, Inc.

Twitter Inc.

U.S. Chamber of Commerce

Uber Technologies Inc.

Wells Fargo & Co.

Yahoo! Inc.

GOVERNMENT AGENCIES

Army Corps of Engineers

Bureau of Citizenship and
Immigration Services

Bureau of Indian Affairs

Bureau of Industry and Security

California Franchise Tax Board

California Transportation Agenc

Commodity Futures Trading
Commission

Congressional Research Servic

Consumer Financial Protection
Bureau

Equal Employment Opportunity
Commission

European Commission

Federal Acquisition Regulatory
Council

Federal Communications
Commission

Federal Deposit Insurance Corp

Suspended SUNY Poly President Quits Amid Bribery Charges

The suspended president of the State University of New York Polytechnic Institute resigned Monday amid federal and state charges accusing him of steering lucrative contracts to private developers in exchange for bribes.

INTERNATIONAL TRADE

US Wants More Transparency In S. Korean Regulatory System

Four years after the U.S.-South Korea free trade agreement went into force, businesses are voicing frustration with Seoul's opaque regulatory system, the Obama administration said at the World Trade Organization's Trade Policy Review of the Asian trading power on Tuesday.

EU Food Name System Could Cost US Billions, Report Warns

The EU's rules covering geographic names for cheese and other dairy products could result in billions of dollars in lost sales for U.S. producers if the system is left unaltered in a trade deal between the two partners, according to a Tuesday report commissioned by a U.S. industry group.

EU's Trade Deal With African Partners Enters Into Force

A modestly structured trade agreement between the European Union and five southern African countries entered into force Monday as Brussels looked to expand its engagement with poorer economies in the face of lagging multilateral talks at the World Trade Organization.

Agencies Amend Export Controls On Laser, Guidance Tech

The U.S. departments of State and Commerce unveiled a pair of complementary rules Tuesday, amending export control regulations regarding which types of laser, thermal imaging and guidance equipment are considered defense items under the International Traffic in Arms Regulations.

TAX

Philly Defends Soda Tax Against Beverage Groups' Challenge

The city of Philadelphia hit back at a challenge by the American Beverage Association and a group of retailers, distributors and consumers to its recently passed tax on sweetened drinks, arguing in a filing docketed Tuesday that the levy does not duplicate an existing state tax.

Credit Card Cos. Lose \$42M NJ Tax Challenge

Credit card interest and other fees charged via New Jersey cardholders properly belong in the Garden State, according to a state tax court decision published on Tuesday rejecting a challenge to \$42 million in taxes from Bank of America and several related credit card companies.

IMMIGRATION

Right-Leaning Justices Wary Of Nixing Biased Conviction

The conservative wing of the U.S. Supreme Court on Tuesday expressed concern that allowing lawyers to present testimony of racial bias in the jury room would open the floodgates to a host of retrial requests involving different types of discrimination, signaling hostility toward a Hispanic man's appeal of his Colorado sexual assault conviction.

NATIVE AMERICAN

Federal Energy Regulatory Commission

Federal Trade Commission

Food and Drug Administration

Government Accountability Office

Information Security Oversight Office

National Archives and Records Administration

National Highway Traffic Safety Administration

National Institute of Standards & Technology

National Security Agency

Office of the Comptroller of the Currency

Port Authority of New York & New Jersey

U.S. Air Force

U.S. Army

U.S. Department of Energy

U.S. Department of Homeland Security

U.S. Department of Justice

U.S. Department of Labor

U.S. Department of Transportation

U.S. Patent and Trademark Office

U.S. Supreme Court

World Health Organization

Alaska Tribal Group Files First Land-Into-Trust Bid In State

The state of Alaska said Monday that it had received notice of the first request by an Alaska tribal group to have land taken into trust by the federal government, following the state's decision this summer to give up on D.C. Circuit litigation opposing such applications.

TELECOMMUNICATIONS

FCC Should Move On New Broadcast TV Standard, Pai Says

Republican Federal Communications Commissioner Ajit Pai called on the agency Monday to authorize the use of a new broadcast TV standard in the first half of next year, saying it shouldn't be controversial and will allow for better service and improved emergency alerting.

Advertising Industry Hits FCC's Broadband Privacy Plans

The Federal Communications Commission's plan to force broadband providers to obtain "opt in" consent from consumers to use and share web browsing and application use data risks significantly harming the internet economy, several advertising trade groups warned Monday.

FCC's Wheeler Touts Accessible Tech For Disabled

Federal Communications Commission Chairman Tom Wheeler wrote in an op-ed Friday that technology has the power to bridge the accessibility gap for individuals with cognitive disabilities, but that innovations must also consider accessibility from the start to avoid erecting barriers.

Q&A

Rainmaker Q&A: Dentons' Rodney Boyd

You have to develop an ever-evolving, deepening series of relationships even though you may not have a client who needs to access those relationships today. If you're going to be a rainmaker, you have to build a network of relationships that are substantive and leverageable even before you need them, says Rodney Boyd, partner at Dentons.

EXPERT ANALYSIS

1 Year After Yates Memo: Measuring Its Impact

An assessment of the Yates memo may be somewhat premature in that many white collar cases cannot be built in just one year. In fact, the Yates memo has not yet been cited in a single case or investigation, says Rachel Paulose, a partner at DLA Piper LLP and former U.S. attorney for the District of Minnesota.

Inside The New Controlled Info Rule For Contractors

Despite the recent public spotlight on government protection of sensitive data, there was no unified law governing the designation and safeguarding of controlled unclassified information. A new rule from the National Archives and Records Administration will now exclusively govern the treatment of CUI by both executive agencies and government contractors, say attorneys with Arnold & Porter LLP.

Remarketing Recalls In A Preregulated World

The amount of recent vehicle recalls and the severity of the defects have attracted the attention of regulators, consumer groups and plaintiffs attorneys

alike. This renewed focus on motor vehicle recalls should prompt used car sellers to disclose open recalls prior to sale, where certified repair is not an option, say Jason McCarter and Tracey Ledbetter of Sutherland Asbill & Brennan LLP.

California Revises Draft Autonomous Vehicle Regulations

On September 30, 2016, the California Department of Motor Vehicles issued a revised draft of regulations that could open the doors to the widespread deployment of driverless vehicles — with no steering wheel, accelerator, or brake pedal — on public roads, say Michael W. Reynolds and Jason A. Orr of O'Melveny & Myers LLP.

Highlights Of The FDA's Abbreviated New Drug Applications

The U.S. Food and Drug Administration recently published its new final rule governing the submission and approval of abbreviated new drug applications, which will take effect in December of this year. Both new drug application holders and follow-on applicants should review the new provisions carefully, as failure to comply could have substantial consequences, say attorneys at Latham & Watkins LLP.

DOE Rule Simplifies Interstate Power Transmission Siting

The Integrated Interagency Pre-Application process provides a framework for DOE to coordinate with applicable federal and non-federal entities for permitting and environmental reviews required under federal law to site certain electric transmission facilities, say Jay Ryan and Marcia Hook of Baker Botts LLP.

A Change In Course For The Treatment Of Broadband Data

The Federal Communications Commission recently released summarized its proposed final rule on broadband privacy, suggesting it may be consistent with privacy precedent set by the Federal Trade Commission. However, whether or not FTC precedent will be maintained is uncertain, as the new rules propose to greatly expand the definition of "sensitive information," say attorneys from ZwillGen PLLC.

LEGAL INDUSTRY

Why GCs Still Care About Law Firm Name Recognition

In metrics-driven, bottom line-focused law departments, do prestige and reputation still matter in outside counsel selection as much as results and cost? Experts say they always will — but only in certain situations.

3 UK Firms Will Merge To Create World's 6th Largest Law Firm

There's a new U.K. heavyweight on the global law firm block as the partners of CMS UK, Nabarro LLP and Olswang LLP have voted "overwhelmingly" to merge, a tie up that creates the sixth largest law firm in the world by headcount.

Norton Rose's New US Managing Partner Eyes Expansion

Norton Rose Fulbright has elected Daryl L. Lansdale Jr. to serve as its new U.S. managing partner, the firm announced Tuesday. The new leader says he plans to focus the firm's growth on four key industry sectors: energy, financial institutions, health care and technology.

ABA Bias Rule Push Begins Amid Signs of Resistance

With the American Bar Association's effort to propagate a controversial bias misconduct rule underway, evidence is already surfacing that the rule will hit plenty of roadblocks on its way to state passage, experts say, further diverging the model rules from local codes.

Death Of Brooklyn DA Ken Thompson Sparks Tributes

Kenneth Thompson, Brooklyn's first African-American district attorney, who passed away Sunday at age 50 after a hard-fought battle with cancer, was praised by public officials in the days immediately after for leaving behind a legacy of fighting for criminal justice reform and civil rights.

Rainmaker Q&A: Schulte Roth's Brian Pfeiffer

All of us have lives outside of work that we want to get home to. But regardless of whether you are a junior associate, a senior associate or a partner, if you're working on a matter with a client and you haven't met them for dinner or a drink, it's a significant missed opportunity, says Brian Pfeiffer, a partner at Schulte Roth & Zabel LLP.

JOBS

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