



Human Resources Weekly Digest

Taking the Human Out of Human Resources

"Imagine seeing your dream job posted on a company's website. You throw caution to the wind and submit an application. Almost immediately, a Chatbot pops on your screen with a series of automated questions designed to verify your interest in the job, your job history, and your available start date. After keying in your answers, an algorithm sends you a series of predetermined questions. You submit your answers and then receive a short logic game, which is supposed to judge your personality. After playing the game (and without ever speaking with a human) you're sent a form offer letter inviting you to start your new job next week." [Full Article](#)

Graydon



"Accent Bias" Plus Ethnic Hostility Can Be Constructive Discharge

"Employers who have departments or units that need to be cleaned up should beware of the 'new sheriff in town' who can make things worse than they were before. One rogue supervisor can create legal havoc for the well-meaning employer because employers are strictly liable for most supervisory misconduct. One unfortunate employer in California is a defendant in six lawsuits involving the same supervisor, who used derogatory language and expressed hostility toward Filipino employees."

[Full Article](#)

Constangy

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A New Trend: Emoji Lawsuits

“Attorneys know with a certainty that words matter in the law. But what about emojis? Reportedly, more emojis are showing up in court cases throughout the US. Thus, attorneys are left to argue about the interpretation of those characters and, apparently, courts are struggling to handle the nuances. The number of reported cases with emojis as evidence in the United States reportedly increased each year since 2017, and is at nearly 50 so far in the first half of 2019. However, there isn’t much court guidance on how to address emojis.”

[Full Article](#)

Goldberg Segalla

When Employee’s Trip to the Beach May NOT Support a Suspicion of FMLA Fraud

“Employers are not obligated to tolerate employee misuse of FMLA leave. Examples abound in which an employer learns – often through an employee’s social media posts or through information from an employee’s co-workers – that an employee on intermittent FMLA leave has been having a good time while absent from work, such as taking a trip to the beach (or Las Vegas, Cancun,), playing golf, going fishing, etc.” [Full Article](#)

Bryan Cave

DOL Issues New Compliance Tools

“The Wage and Hour Division of the U.S. Department of Labor has announced the release of new tools intended to assist employers in complying with federal labor laws. These new tools include plain-language presentations on topics such as the Fair Labor Standards Act, federal child labor requirements, and employers’ responsibilities to provide rest breaks and proper facilities for nursing mothers. The WHD states that these tools, in conjunction with worker.gov, employer.gov, and other recently released online tools, will ensure greater understanding of federal labor laws and regulations.” [Full Article](#)

Shawe Rosenthal



Employer’s Additional Notice Requirement for Requesting FMLA Leave Dooms Attempt to Dismiss Employee’s Interference Claims

“Employees who take FMLA leave may be required to comply with the employer’s usual and customary notice and procedural requirements for requesting leave. If the employee does not follow these requirements, the employer may delay or deny FMLA-protected leave. But what happens if the employer’s policy has different notice requirements for FMLA leave than for other time off?” [Full Article](#)

Jackson Lewis

STATE & INTERNATIONAL COMPLIANCE

NEW JERSEY



New Jersey Joins Jurisdictions Banning Salary History Inquiries

"New Jersey employers will no longer be able to ask applicants for salary history or use an applicant's prior wages, salary, or benefits to make compensation decisions unless the information is voluntarily disclosed by the applicant. The law will go into effect on January 1, 2020. On July 25, 2019, New Jersey's Acting Governor Sheila Oliver signed into law." [Full Article](#)

Ford Harrison

NEW YORK



What Employers, Supervisors Need to Know about New York's Child Victims Act

"New York's passage of the Child Victims Act strips away the shield of the statute of limitations behind which sexual abusers were able to take refuge for their horrific predations. Until this year, a child victim of sexual abuse had to seek criminal redress by the age of 23 and civil recourse by ages 19 or 21." [Full Article](#)

Goldberg Segalla

WASHINGTON



Washington State Supreme Court Holds State Law Bars Discrimination Based on Obesity

"Washington's highest court has ruled that obesity is always an "impairment" under Washington's Law Against Discrimination, regardless of whether obesity is related to some other medical condition. Accordingly, treating job applicants or employees adversely based on their actual or perceived obesity is unlawful disability discrimination unless..." [Full Article](#)

Littler Mendelson

OREGON



Paid Family and Medical Leave is Coming to Oregon

"Earlier this month, Oregon passed its own paid family and medical leave act (the act), making it the eighth state in the country to pass such a law. Oregon joins California, Massachusetts, New Jersey, New York, Rhode Island, Connecticut and the District of Columbia in providing paid family and medical leave benefits to employees." [Full Article](#)

Baker Hostetler

ILLINOIS



Illinois Amends Equal Pay Act to Ban Questions About Applicants' Pay History

"On July 31, 2019, Illinois Governor J.B. Pritzker signed into law an amendment to the state's Equal Pay Act. The amendment, which is effective on September 29, 2019, prohibits employers from requesting applicants' wage or salary history on employment applications and during the interview process, and forbids screening job applicants based on their wage or salary histories. Employers may not request this information either from the applicants themselves or from their current or former employers." [Full Article](#)

Barnes and Thornburg