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Seventh Circuit Says One Use of the "N-Word" Insufficient for Racial Harassment Claim

"In recent years, a number of federal appellant courts, including the Fourth Circuit, have issued opinions finding that a single use of a racial slur can be enough to constitute a hostile and offensive working environment based on race. On August 21, the Seventh Circuit Court of Appeals bucked this trend, concluding that a single alleged use of the "n-word" by a supervisor was not enough to show racial harassment given the overall scenario encountered by the plaintiff." Full Article

Parker Pole

Employees Do Not Have the Right to Dictate Reasonable Accommodation

"The Americans with Disabilities Act and the Rehabilitation Act (applicable to federal sector workers) require employers to provide reasonable accommodations to enable disabled employees to perform their essential job functions or enjoy the privileges and benefits of employment, but as the U.S. Court of Appeals for the Seventh Circuit made clear, the employee is not able to dictate what that accommodation should be." Full Article

Shawe Rosenthal

In This Digest

Arbitration Agreements 101

"The Eighth Circuit has issued a reminder to those seeking to bind employees and consumers to arbitrate future disagreements: don't gloss over contract basics. In Shockley v. Prime Lending, 929 F.3d 1012, Jennifer Shockley sued her former employer under the Fair Labor Standards Act, alleging she was not paid for all earned wages and overtime pay. Prime Lending moved the district court to compel arbitration based on a mandatory arbitration provision contained in its employee handbook. The district court denied the motion because it found no agreement to arbitrate existed between Shockley and the company." Full Article

Baker Sterchi Cowden & Rice

Salary History Bands Continue to Gain Momentum Across the Country

"The list of states and cities implementing prohibitions on employer salary history inquiries continues to grow. On June 10, 2019, Alabama enacted the Clarke-Figures Equal Pay Act ("CFEPA"), the state's first pay equity law. The CFEPA prohibits an employer from refusing to interview, hire, promote, or employ an applicant for employment, or retaliate against an applicant for employment because the applicant refuses to disclose their wage history." Full Article

Squire Patton Boggs

Employees Seeking ADA Accommodation Do Not Have to Make a Formal Request

"Employees or applicants with disabling medical conditions must place the employer on notice of such condition in order to claim protection under the Americans with Disabilities Act. However, as reminded in a new decision from the Tenth Circuit Court of Appeals, employees do not need to use 'magic words' in order to trigger these accommodation obligations." Full Article

Parker Poe

Winter is Coming: Tips for Cold Weather Work and Avoiding Hazards

"As the seasons begin to change, winter weather creates hazardous worksite conditions. Winter brings snow, ice, wind chills, and persistent temperatures below freezing. Workers, as well as supervisors and employers, need to take winter safety into consideration throughout everyday worksite duties. Injuries that are commonplace at the worksite year-round become more likely during the winter months. These tips are intended to provide employers and workers with the tools to implement safety precautions throughout the cold months." Full Article

Goldberg Segalla

STATE & INTERNATIONAL COMPLIANCE

ILLINOIS

Recreational Marijuana & Workers' Compensation: What Employers Need to Know

"With the impending legalization of recreational marijuana in Illinois on January 1, 2020, employers are abuzz about the potential implications on their operations, particularly how legalization impacts alleged work injuries. Under the Illinois Workers' Compensation Act, employees found intoxicated at the time of an accident are denied compensation if the intoxication…" Full Article

Goldberg Segalla

WASHINGTON

Non-Agricultural Employers May Use Workweek Averaging to Satisfy State Minimum Wage Obligations

"The Washington Supreme Court has confirmed that non-agricultural employers may use a workweek averaging methodology to satisfy the Washington Minimum Wage Act. Sampson et al. v. Knight Transportation Inc. et al., No. 96264-2 (Sept. 5, 2019). In other words, non-agricultural employers can satisfy their state minimum wage obligations…" Full Article

Jackson Lewis

COLORADO

Employees Lose It Over Use It or Lose It Vacation Policies

"In Nieto v. Clark's Market, Inc., 2019 COA 98 (Colo. App. June 27, 2019), a division of the Colorado Court of Appeals held that the Colorado Wage Claim Act does not prohibit employers from imposing conditions on the right to be paid for accrued but unused vacation upon termination. In that case, the employer's policy provided that terminating employees would not be paid for accrued but unused vacation if they were discharged or if they resigned with less than two weeks' notice." Full Article

Bryan Cave

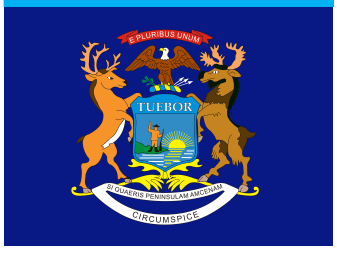
CALIFORNIA

Three Major Workplace Bills to Land on Governor Gavin Newsom's Desk

"Following the launch of the so-called '#MeToo' movement, the California Legislature (controlled by a Democratic supermajority) has aggressively churned out new bills that further strengthen the ability for workers to sue their employers and increase the already-significant regulatory burden on these companies. This fall, the California Legislature is geared to send three significant bills to Governor Gavin Newsom that all California employers should carefully follow." Full Article

Sheppard Mullin

MICHIGAN



Employee Fraud Not a Condition for an Employer's/ Insurer's Recoupment of Overpayment

"The Michigan Court of Appeals recently issued a decision which addresses the rights of employers/ insurance companies to obtain reimbursement for overpayments made to an injured worker. Iesha Fisher v Kalamazoo Regional Psychiatric Hospital and State of Michigan. The undisputed facts of the case are as follows. Plaintiff Fisher sustained a workplace injury and was voluntarily paid benefits. The employer initiated a recoupment action, alleging that it voluntarily paid Ms. Fisher three months of benefits at an improperly high rate." Full Article

Foster Swift