Quick Hits: FLSA & Arbitration Agreements, Initial Discovery Protocols, Dating Policies, EEOC Charges, Ledbetter

By Daniel Schwartz on December 16th, 2011

There are lots of items I had hoped to write about but, as many of you have observed, there's only so much time in the week. So, it's time to bring back the recurring "Quick Hits" feature to highlight some tidbits worthy of your consideration:

- Are arbitration agreements that waive FLSA collective actions enforceable? No, according to one SDNY judge in a recent case. Good report from the Employment Matters blog.
- New initial discovery protocols are being tested in various federal courts, reports the Delaware Employment Law Blog. The purpose of the Protocols is to "encourage parties and their counsel to exchange the most relevant information and documents early in the case, to assist in framing the issues to be resolved and to plan for more efficient and targeted discovery." You can read more about them here. It remains to be seen if Connecticut will see these in action but it's an interesting concept. At the very least, it should give practitioners ideas on what they should be asking for in discovery.
- Should you have a subordinate dating policy? And if so, do you want to have a "love contract"? These are the issues addressed in a notable piece from the HR Daily Advisor.
- EEOC charges continue to be at their highest levels, reports the DC Employment Law Update. When will the comparable CHRO statistics be released? The agency has been lagging behind in releasing them.
- The U.S. Supreme Court will hear arguments next year on the scope of the outside sales exemption to wage/hour laws. The outcome could have a big impact on pharmaceutical companies, according to a recent post by the Wage & Hour Litigation Blog.
- The Wait a Second blog reports on a case out of the Second Circuit which rejected efforts by an employee to get a new hearing based on the Ledbetter Fair Pay Act. It's one of the few reported cases on this relatively new law and for that alone, it's worth checking out.
- Should you ask departing employees to sign a "legal hold waiver"? Jason Shinn, on his Michigan Employment Law Advisory discusses the debate on this relatively new technique.
- Lastly, Jon Hyman at the Ohio Employer's Law Blog reported on new rules for removing cases to federal court and the impact that it could have on employment law cases, particularly for employers.