

Labor & Employment Chronicle - Fall 2019 Edition

Hinshaw Newsletter | 2 min read

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Welcome to the *Labor & Employment Chronicle*, our quarterly newsletter that reviews the top stories from Hinshaw's *Employment Law Observer* blog.

Can Railroad Employees Use Class Action to Pursue ADA Claims?

The Eighth Circuit is [set to take a look](#) at whether more than 7,000 railroad employees should be class certified in a class action arguing that a fitness for duty policy violated the Americans with Disabilities Act. A decision in favor of the workers could potentially open the door for increased class action litigation under the ADA, while a decision for the railroad company could make class actions under the ADA more difficult to maintain.

DOL Opinion Letter Says Employers Must Comply with FMLA Leave Designation Rules

Employers frequently have to juggle employee leave demands with their own regulatory compliance obligations. An opinion letter issued by the U.S. Department of Labor (DOL) [clarified the issue](#) of whether an employer may delay the designation of leave that qualifies under the Family and Medical Leave Act and provide employees with leave beyond the 12-week statutory entitlement.

Major League Baseball Umpire Strikes Out in His Assertion of Union Privilege

A baseball umpire [asserted a union privilege](#) in order to protect his communications with the Major League Baseball Umpires Association in connection with his discrimination claim against Major League Baseball. A federal district court in New York ruled that any union relations privilege would only cover communications made in the context of representation by a union representative during disciplinary proceedings under a collective bargaining agreement.

Illinois Prohibits Employers from Using Salary History in Hiring Process

The state of Illinois joined a [growing list of state and local governments](#) that have banned employers from using salary history in the hiring process. Illinois adopted its salary history ban through an amendment of the Illinois Equal Pay Act of 2003. Once the ban goes into effect, Illinois employers, employment agencies, and staff will be prohibited from seeking salary history information from a job candidate or her past employer.

NLRB Announces Three Proposed Rules, ‘Unfair Labor Practice’ Claim May No Longer Block a Union

The National Labor Relations Board [issued three proposed amendments](#) to the rules on union representation elections. The three amendments would change the “blocking charge” policy, the voluntary recognition bar, and the rule on contractual representation clauses in the construction industry.

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