



## **LEGAL AND LEGISLATIVE UPDATE: AUGUST 2006**

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### **MINIMUM WAGE INCREASE**

Pennsylvania will raise the minimum wage to \$7.15 an hour by July of next year. Currently, Pennsylvania law is consistent with the federal minimum wage of \$5.15. The increase will initially be \$6.25 beginning January 1, 2007 and rise to \$7.15 on July 1, 2007. All Pennsylvania employers must comply with the new wage rate despite the fact that the federal minimum wage will remain at \$5.15. Smaller employers, with 10 or fewer employees, will have the implementation of the new wage levels delayed over a two-year period. The new law also permits a training wage of \$5.15 for 60 days for employees under the age of 20.

Pennsylvania joins 19 other states and the District of Columbia with a minimum wage above the federal minimum level.

### **NEW FMLA REGULATIONS ON THE WAY??**

Although the United States Department of Labor indicated that new proposed regulations would be released in June, many employers are still anxiously awaiting word on the DOL's proposals to reform the Family and Medical Leave Act. In April, the DOL announced that it would publish a notice of proposed rulemaking by June 2006 to address recent court decisions, including the United States Supreme Court decision in Ragsdale v. Wolverine World Wide, Inc., which invalidated an existing FMLA regulation.

Like it did with the FLSA regulations a few years ago, the DOL announced that the FMLA regulations will be subject to a notice and comment period, allowing persons with comments on the proposals to submit them for consideration before the final regulations are issued.

### **POTENTIAL FOR AN INCREASE IN RETALIATION CLAIMS**

The United States Supreme Court decision in June in Burlington Northern v. White has led many commentators to believe that there will be a significant increase in retaliation claims filed under Title VII. In Burlington, the Supreme Court appears to have adopted a broad and very plaintiff-friendly standard for what constitutes retaliation in the employment relationship.

Under the decision, any employment action that is "materially adverse" and that "might have dissuaded a reasonable worker" from complaining about discrimination can be retaliation. Thus, the focus is on both the material nature of the action by the employer and its effect on a reasonable person in the position of the employee. The Court noted that context will also be important in determining whether retaliation has occurred. For example, refusing to take an employee to lunch might be a mere "petty slight", but excluding them from a weekly training lunch that is critical to advancement could be the type of action that could deter someone from complaining about discrimination.

For more specific guidance on these issues, you may reach Mr. Gold at (717) 237-6702 or by email at [kgold@rhoads-sinon.com](mailto:kgold@rhoads-sinon.com).