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LABOR & EMPLOYMENT LAW ALERT

Recent Legislation Affecting the Labor & Employment Law Area

US Court of Appeals Vacated the NLRB's Rule Requiring Employers to Display Poster Regarding Employee Rights to Organize Unions

On May 7, 2013, the US Court of Appeals for the D.C. Circuit struck down the National Labor Relations Board (Board) rule requiring employers to display a poster informing employees of their rights under the National Labor Relations Act (NLRA).

The DC Circuit held that the rule violated the NLRA because it considered an employer's failure to display the poster as an "unfair labor practice," and as proof of anti-union animus, among other reasons. The Board published the posting rule in August of 2011. However, the Board had postponed the effective date of the posting rule pending the outcome of the appeal. We will keep you informed of further developments in connection with the notice posting rule. For further information regarding this topic, please also refer to our [September 1, 2011](#) and [April 17, 2012](#) Labor & Employment Law Alerts.

Governor García-Padilla Signs Law Prohibiting Employment Discrimination on the Basis of Sexual Orientation and/or Gender Identity

On May 29, 2013, Governor Alejandro García-Padilla signed Senate Bill No. 238 into law ("Act 22-2013"). Act 22-2013 amends Puerto Rico's Anti-Discrimination Statute, Act No. 100 of June 30, 1959 ("Act 100-1959"), and certain employment statutes applicable to government employees, to prohibit employment discrimination on the basis of an employee's sexual orientation and/or gender identity. This amendment is effective immediately.

With this latest amendment to Act 100-1959, employers may not discriminate against employees in relation to their salary, terms and conditions of employment based on their sexual orientation and/or gender identity. Further, as with currently protected categories (such as race, color, sex, age, marital status and social origin or condition), employers may not refuse to hire or re-hire a person, otherwise deny them employment opportunities, or affect their employment status based on these new protected categories. Among other things, employers should revise their policies in order to comply with these new protected categories.

Act 22-2013 defines “sexual orientation” as the ability of each person to feel an emotional, affective or sexual attraction towards persons of the same sex, opposite sex, or both. “Gender identity” is defined as the way in which an individual identifies him/herself with regards to their gender, which can relate or not to their biological or assigned sex. Pursuant to Act 22-2013, these definitions should be broadly interpreted, so that they can be applied to all individuals subject to one instance or a pattern of discrimination due to sexual orientation and/or gender identity.

Employers who violate Act 100-1959 are liable for double damages caused to the employee. Employers who violate this Act also commit a misdemeanor punishable by no more than 90 days of imprisonment and/or a fine no greater than \$5,000, at the Court’s discretion. Act 22-2013 does not apply to faith-based institutions whose core beliefs or occupational requisites are in conflict with the interests protected by the Act, including educational institutions.

If you have any questions or comments, or wish additional information regarding the above matters, please contact any of the following attorneys:

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