

Legal Connections



LEGAL EXPERTISE FOR THE BUSINESS COMMUNITY

DECEMBER 6, 2019

"Continuing education enhances professional development. The Columbus Bar offers 2 CLE classes daily throughout December to help lawyers be their best: www.cbalaw.org."

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SUPREME COURT DECISIONS: WHY YOU SHOULD BE LISTENING

The current U.S. Supreme Court term includes a variety of cases important to business. Here's a brief look at five of them.

In October, the high court heard a set of cases involving claims of employer discrimination based on sexual orientation and gender identity. The Court will decide whether Title VII, the federal workplace anti-discrimination law, prohibits an employer from taking adverse action against an employee because they are gay or transgender. The decision will likely have a major impact on the availability of these claims in employment litigation.

In November, in a case called Retirement Plans Committee of IBM v. Jander, the justices considered the



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liability of a corporate officer who manages a pension plan that invests in employer stock (i.e., an ESOP). In this case, officers of IBM were fiduciaries of an IBM pension plan that invested in the company's stock. The officers learned inside information suggesting that the value of the stock would likely decline. Must the officers disclose the

inside information and stop buying the stock? The Court will provide guidance soon.

Health insurers will note a set of cases argued in December involving the Affordable Care Act. The ACA set up a system to at least partially reimburse insurers who lose money on policies for people with preexisting conditions. Congress, however, later cut the funds available to pay the insurers,

resulting in what one plan's attorney called "a bait-and-switch of staggering dimensions in which the government has paid insurers \$12 billion less than what was promised."

Finally, in Spring 2020, the Court will hear two cases with massive potential implications. The first challenges the structure of the Consumer Financial Protection Bureau. If the justices agree that the structure is unconstitutional, their decision could upend all of the CFPB's actions in the nine years since its creation. And in Google v. Oracle, the Court will decide, among other things, whether software interfaces—a building block of modern software development—can be copyrighted.

Decisions on each case are expected by the end of June 2020. ■

EDUCATION & EVENTS

Ohio Public Construction Institute
Tuesday, Dec. 10 • 10 a.m. – 3:45 p.m.
5.0 CLE Hours

Committees and Cocktails
Wednesday, Dec. 11 • 5 – 7 p.m.
This event is free for Columbus Bar members

A Comedic Review of Supreme Court Decisions
Friday, Dec. 13 • 8:50 a.m. – 4:45 p.m.
6.0 CLE Hours (3.0 Prof. Conduct)

Ohio's Medical Marijuana Business – A Legal Perspective (Video Replay)
Saturday, Dec. 14 • 12 – 3:45 p.m.
3.0 CLE Hours

All classes listed are offered at the Columbus Bar Associations offices, 175 S. Third St. Ste. 1100. To register, call 614-221-4112 or enroll online at www.cbalaw.org.

LOOKING FOR AN ATTORNEY? CHECK OUT ALL THE QUALIFIED ATTORNEYS ON THE COLUMBUS BAR'S ONLINE DIRECTORY: DIRECTORY.CBALAW.ORG

LEGAL UPDATE: NEW OVERTIME EXEMPTION RULES

Effective January 1, 2020, employers will now have to comply with the new overtime regulations finally adopted by the Department of Labor (DOL) which determines when employees can be exempted from overtime compensation under the "white collar exemptions" of section 13 of the Fair Labor Standards Act.

Through an increase in the salary thresholds, it is anticipated an additional 1.3 million employees will be entitled to overtime. The last time such thresholds were raised was in 2004.



MARIBETH MELUCH
Isaac Willes
Burkholder & Teetor

The final rule raises the standard salary level to \$684 per week (equivalent to \$35,568 per year for a full-time employee) and raises the total annual compensation level of "highly compensated employees" to \$107,432 per year. Employers are permitted to apply non-discretionary bonuses and incentive payments such

as commissions to satisfy up to ten percent of the standard salary level if such payments are paid at least annually. The Department of Labor has further promised to update these thresholds more frequently through

notice and comment rulemaking.

Employers should immediately start planning for the impact of these rules on their workforce. Not only will determinations have to be made as to which employees will be affected, employers will have to assure that adequate training is provided regarding time records for those employees new to overtime compensation. Employers should also give special considerations on how they notify their workforce of the implementation of these new rules. Although many employees may be ecstatic about the prospect of overtime pay, other employees who will now view having to maintain time records as a

loss of status.

Employers should also take advantage of these new rules to audit their workforce to assure that those employees they have previously determined to be overtime exempt, truly are exempt. Misclassifying employees is one of the more frequent violations of the FLSA and carries heavy penalties. Now may be an excellent time to consult with your employment attorney for help in implementing the new rules and assuring compliance with the FLSA.

2020
MARTIN LUTHER KING, JR.
Symposium

Can we see clearly now?

Fifty-seven years after "I Have a Dream," how far have we come? Topics for this year's civil rights symposium include: employment, free speech, youth issues, local developments, opportunities for change, and more.

cbalaw.org ☎ (614) 221-4112

January 24, 2020
9:00am-4:45pm
6.0 CLE Hours

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THE TIME IS
always
RIGHT
TO DO WHAT IS
RIGHT