

Mid-Year Employment Law Update of 2017

Arizona employers have been kept on their toes this year, with the increase in minimum wage, implementation of the paid sick time requirement, and revised I-9 Forms to name a few. Gallagher & Kennedy has kept abreast of these changes and is available to assist you in maintaining compliance in this ever changing environment of employment laws. Here are a few things to keep in mind:

Another, new Form I-9: Earlier this year, we informed you that the United States Citizenship and Immigration Services (“USCIS”) had issued a new Form I-9, effective January 22. Don’t get too comfortable using that form because on July 17, 2017, the USCIS announced yet again that it was issuing a revised form. Employers must use this revised form, with the revision date of 07/17/17 by September 18, 2017. It is, however, okay to start using [this form](#) right away and you can access a fillable form by going to www.uscis.gov/i-9. While the form has changed, employers must continue to follow existing storage and retention rules for all Form I-9s.

What’s new? The changes to this form are relatively minor and will likely go unnoticed by most employers. The USCIS has made changes to the Form I-9 instructions to reflect the name change of the Office of Special Counsel for Immigration – Related Unfair Employment Practices to the Immigration and Employee Rights Section. Other revisions include changes to the List of Acceptable documents acceptable in List C. USCIS has included these changes in the [Handbook for Employers: Guidance for Completing Form I-9 \(M-274\)](#).

Prop. 206: Prior to the July 1, 2017 implementation of the Paid Sick Time portion of Prop. 206, our [Employment Law Advisory](#) outlined that basic requirement of the new law. That information should have encouraged all employers to draft or revise policies explaining these new benefits to employees. If you haven’t drafted or revised your current policies to address the components necessary to comply with the statute, you should consider doing so right away. The fact that an employer offers more than the 24/40 hours required by the statute does not make the paid sick time or paid time off policy compliant. In fact, every policy reviewed by Gallagher & Kennedy for compliance has needed some revisions for the policy to comply with this new law.



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Employees hired before July 1, can begin using accrued paid sick time immediately. An employee's use of paid sick time cannot result in any adverse employment action, including the treatment of the use of paid sick time as an unexcused absence. The statute has a rebuttable presumption of retaliation when an adverse employment action is taken against an employee who has taken paid sick time in the past 90 days. Employers should take care to document performance or behavior issues unrelated to paid sick time prior to taking an adverse employment action against an employee. Doing so will support your legitimate business decision in taking action against that employee.

Mandatory Initial Discovery Project: On April 14, 2017, the Federal District Court of Arizona issued an order requiring new discovery protocols in all civil cases filed after May 1. The new discovery protocols require the parties to serve responses to the mandatory initial discovery much sooner than past rules required. The information to be disclosed by each part is extensive and will require considerable time to gather and prepare. Further, the Court does not have authority to extend these deadlines, even if the parties agree to such an extension.

Employers who are served with a lawsuit should contact counsel right away. Be prepared to devote time early on in the process gathering the necessary disclosures and providing that information to counsel as soon as possible. Doing so will provide your counsel with the necessary time to prepare a response to the complaint and responses to the mandatory initial discovery protocols.

Be diligent. With the current political climate, we are seeing many changes in employment laws. We encourage employers who have specific questions about the Form I-9 process, Proposition 206, the new mandatory litigation protocols, or any employment related matter to contact any of the members of Gallagher & Kennedy's Employment & Labor Law practice.