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What The Election Outcome Means for Employers/ 2017 HR Trends

Robert D. Shank
Jackson Lewis P.C. | Cincinnati
Robert.Shank@jacksonlewis.com | 513-621-3440

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What to Expect? Does Anyone Know?



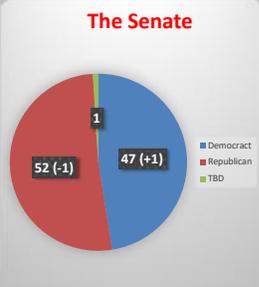
The image shows a hand holding a crystal ball on the left, which reflects a crowd of people. On the right is a portrait of Donald Trump. The slide is titled 'What to Expect? Does Anyone Know?' and includes the Jackson Lewis logo at the bottom right.

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THE RESULTS

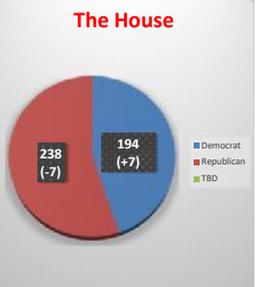
Divided Country, Unified Government

The Senate



Party	Count	Change
Democrat	47	(+1)
Republican	52	(-1)
TBD	1	

The House



Party	Count	Change
Democrat	194	(+7)
Republican	238	(-7)
TBD	0	

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Background

- ◆ As of January 20, 2017, the U.S. has a new President, and both houses of Congress are led by Republican majorities.
- ◆ The U.S. Supreme Court is likely to follow suit.
- ◆ Candidate Trump promised to reverse or eliminate many of the Obama Administration's employee-friendly enforcement positions and rules.
- ◆ Candidate Trump also carried working class voters.

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Background (cont.)

- ◆ Trump does not believe in the over-regulation of business.
- ◆ This is reflected in his recent appointees.
- ◆ Trump has shown more populist tendencies than traditional Republican candidates.
 - He already has expressed support for worker-friendly ideas, such as paid maternity leave and possible universal health care.
 - Some speculate he may support an increase in the federal minimum wage.
- ◆ Trump is unlikely to forget the significant support he received from working class Americans, and he may be inclined to reward these voters.

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Background (cont.)

- ◆ This program provides a broad overview of the anticipated impact of Trump's presidency on a multitude of labor & employment laws, regulations, agency guidance and enforcement provisions, and case law.
- ◆ However, Trump's statements are not always consistent, and his plans are a moving target.
- ◆ The information presented here may change in the coming weeks and months.

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TRUMP AGENDA

- ◆ **Signature Issues and Priorities**
 - Trade
 - Immigration
 - Health Care Reform
 - Deregulation
 - 100-Day Plan
- ◆ **How, and How Fast, Will Changes Happen?**
 - Executive Orders
 - Appointment and Nomination Process
 - Notice and Comment Period for Regulations
 - Legislation – Subject to Filibuster



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Executive Orders And Actions

- ◆ Trump announced an intention to rescind President Obama's Executive Orders and actions.
- ◆ Many of these impose significant restrictions and reporting requirements on government contractors.
- ◆ For example, the Fair Pay and Safe Workplaces Executive Order, most of which was recently enjoined nationwide by a Texas District Court, is expected to disappear under President Trump if it is not invalidated permanently in litigation.

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Executive Orders And Actions (cont.)

- ◆ Will President Trump rescind Obama's Executive Order requiring government contractors to provide seven days of paid sick leave per year to employees who work on or support government contracts?

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President Trump's Executive Orders

No.	Title/Description	Date signed
13765	Minimizing the Economic Burden of the Patient Protection and Affordable Care Act Pending Repeal	January 20, 2017
13766	Expediting Environmental Reviews and Approvals for High Priority Infrastructure Projects	January 24, 2017
13767	Border Security and Immigration Enforcement Improvements	January 25, 2017
13768	Enhancing Public Safety in the Interior of the United States	January 25, 2017
13769	Protecting the Nation from Foreign Terrorist Entry into the United States	January 27, 2017
TBA	Ethics Commitments by Executive Branch Employees	January 27, 2017
TBA	Reducing Regulation and Controlling Regulatory Costs	January 30, 2017

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Government Agencies – In General

- ◆ Under President Trump, agencies such as the DOL, EEOC, OFCCP, OSHA, and NLRB are expected to focus more on achieving employer compliance and less on aggressive enforcement.
- ◆ Education vs. penalties
- ◆ On-going court challenges to some rules may be disposed of via settlements.

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Equal Employment Opportunity Commission

- ◆ President Trump appointed Acting EEOC Commissioner Victoria Lipnic.
- ◆ Under President Obama, the EEOC took aggressive enforcement efforts and pursued significant litigation in such areas as criminal background checks, systemic discrimination, and LGBT protections.
- ◆ The EEOC likely will curtail many of these efforts under President Trump.
- ◆ Republican Congress also may allocate fewer funds toward EEOC enforcement efforts.

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EEOC: Agency Guidance

- ◆ Recently-issued EEOC guidance on retaliation, national origin discrimination, and pregnancy discrimination also may be rescinded or curtailed.
- ◆ Much of that guidance reflects existing case law, but in some areas, the EEOC has advocated for more expansive protections than most courts have been willing to endorse.

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Impact on the Judiciary



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Courts

- ◆ President Trump will appoint at least one new Justice to the U.S. Supreme Court (possibly three) and will fill numerous other federal judicial vacancies (100 open now).
- ◆ President Trump will likely appoint judges who are inclined to:
 - Preserve strict certification standards for class actions;
 - Support arbitration of employment disputes; and
 - Rein in emerging theories and interpretations of EEO laws, such as Title VII and the Americans with Disabilities Act.

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Agencies cannot just say it's so . . .

- ◆ Gorsuch took a limited view of the NLRB's authority to issue new rules regarding computation of back pay.
- ◆ "In our legal order the proper avenue for addressing any dissatisfaction with congressional limits on agency authority lies in new legislation, not administrative *ipse dixit*."
- ◆ Gorsuch applied discrimination charge filing deadlines strictly against plaintiffs, rejecting arguments that would expand those time periods.
- ◆ He has not hesitated to reject federal whistleblower claims.

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Religious Liberty

- ◆ Judge Gorsuch's most notable benefits-related opinion was a concurrence in which several employers challenged the contraceptive mandate imposed by the Affordable Care Act on religious-liberty grounds.
- ◆ The interests of religiously affiliated employers will come into play as early as this term, when the Supreme Court considers the scope of ERISA's exemption for "church plans."

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ADA – limits on LOA

- ◆ The Tenth Circuit determined that a leave of absence of more than six months was an unreasonable accommodation. *Hwang v. Kansas State Univ.*, 753 F.3d 1159 (10th Cir. 2014).
- ◆ Gorsuch: "It's difficult to conceive how an employee's absence for six months . . . could be consistent with discharging the essential functions of most any job in the national economy today."

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Driver left cargo unattended . . .PCA?

- ◆ Gorsuch dissent:
 - ◆ "It might be fair to ask whether [company's] decision was a wise or kind one. But it's not our job to answer questions like that. Our only task is to decide whether the decision was an illegal one."
- "There's simply no law anyone has pointed us to giving employees the right to operate their vehicles in ways their employers forbid," he added. "Maybe the [DOL] would like such a law, maybe someday Congress will adorn our federal statute books with such a law. But it isn't there yet. And it isn't our job to write one — or to allow the [agency] to write one in Congress's place."

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Immigration

- ◆ EO 13767: Border Security and Immigration Improvements
 - Authorizes building the Wall – no details yet.
 - Business impact:
 - NAFTA rewrite?
 - Increased prices on manufactured goods and produce?
 - Decrease immigration?
 - Upward wage pressure?
- ◆ EO 13768: Enhancing Public Safety in the Interior of the United States
 - Authorizes deportation based on arrest without conviction.
 - Business impact: Decreased hiring of potentially suspect workers?
- ◆ EO 13769: Protecting the Nation from Foreign Terrorist Entry in the United States
 - Business impact: restricted travel to US and reciprocal treatment by the affected countries, global mobility and global trade may be affected.

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Immigration: Work Visas

- ◆ On the issue of H-1B visas, Trump has been somewhat inconsistent.
 - Most recently stated an intention to ask DOL to look into possible misuse of H-1B visas to replace U.S. workers with temporary foreign workers, particularly in information technology jobs.
- ◆ Fundamental changes to the H-1B program would require legislative action.
- ◆ Congress historically viewed the program favorably due to the wide range of businesses that rely on it.

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Immigration: Work Visas (cont.)

- ◆ TN visas are available to professionals from Canada and Mexico.
- ◆ Created by NAFTA.
- ◆ Trump's call to eliminate and renegotiate NAFTA could jeopardize the availability of these visas.
- ◆ Trump also may try to roll back recent administrative rules that provide employers and employees with greater flexibility to retain foreign post-graduate students and employees here on temporary work visas who have applied for permanent residency.

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Immigration: E-Verify

- ◆ Under current federal law, E-Verify is voluntary for employers.
 - Except as mandated by executive order for federal government contractors.
- ◆ The new administration may expand enforcement of existing immigration laws in the workplace.
- ◆ May also encourage more employers to use E-Verify, as well as working with Congress to expand mandatory use of E-Verify.

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Immigration: DOJ

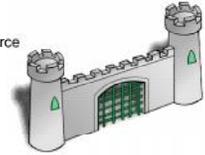
- ◆ Attorney General-designate Jeff Sessions is a sharp critic of Obama Administration immigration policies.
- ◆ As AG, Sessions is central in immigration enforcement and compliance.
 - Note: is AG Sessions already in trouble, or is this just the normal political process at work?
- ◆ DOJ oversees immigration courts and the Board of Immigration Appeals.
- ◆ DOJ Office of Special Counsel for Immigration-Related Unfair Employment investigates discrimination-related matters under the immigration laws.

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Increasing Enforcement on the Immigration Front

- ◆ Stiff immigration policies were a signature campaign promise for the President.
- ◆ How else might this play out for employers?
 - Workplace enforcement audits (Raids? More I-9 Audits?)
 - Potential stalling, reform of temporary work/ visa programs
 - New I-9 form
 - Potential loss of lower paid workforce



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The Feds Roll Back (or will they?) and States Roll On – Paid Sick Leave



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Current Status of Gender Discrimination Laws



- ◆ The United States Supreme Court will hear its first transgender rights case involving a Virginia school board that wants to prevent a transgender student from using the boys' bathroom at the high school. *Gloucester County School Board v. G.G., No. 16-273.*
 - Oral argument scheduled for March 28, 2017.

- ◆ Nineteen states (CA, CO, CT, DE, HI, IL, IO, ME, MD, MA, MN, NV, NJ, NM, OR, RI, UT, VT and WA) and D.C. include gender identity and/or gender expression in their employment non-discrimination statutes



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Current Status of Gender Discrimination Laws—Possible Changes at the EEOC

- ◆ New Director
- ◆ New General Counsel
- ◆ Impact on EEOC's position on sexual orientation, gender identity and gender expression initiatives.
- ◆ The EEOC's current position is that gender identity and sexual orientation are protected by the federal antidiscrimination laws.
- ◆ The EEOC's guidelines on Transgender Restroom Access remain in effect.

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Current Status of Gender Discrimination Laws

- ◆ Just last week, the Trump Administration rescinded Obama's directive that schools "treat a student's gender identity as the student's sex for purposes of Title IX and its implementing regulations." (Obama's May 2016 Dear Colleague letter).
- ◆ Why was it rescinded? (According to the DOJ and Department of Education).
 - No extensive legal analysis.
 - Did not undergo any formal public process.
 - Contradictory litigation since.
 - To give "due regard" to state and local governments in establishing educational policy.

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Current Status of Gender Discrimination Laws

- ◆ The DOJ and the DOE stated that revoking the Dear Colleague letter "does not leave students without protections from discrimination, bullying, or harassment. All schools must ensure that all students, including LGBT students, are able to learn and thrive in a safe environment."
- ◆ The DOJ and DOE suggested that further guidance on gender identity would be provided in the future.
- ◆ How will the revocation affect the *Gloucester County* case pending before the Supreme Court?
 - The Court is also expected to decide how much weight to give to the DOJ's and DOE's interpretations of Title IX.

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Current Status of Gender Discrimination Laws

- ◆ Schools remain free to voluntarily allow transgender students to use the bathroom matching their gender identity.
 - The Dear Colleague letter never had the force of law.

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EEOC Enforcement – Retaliation, Interference, and the ADA

- ◆ On August 25, 2016, the EEOC issued its Enforcement Guidance on Retaliation and Related Issues.
- ◆ The Guidance outlined expanded definitions of “opposition” and “participation” activities for retaliation claims, and addressed section 503(b) of the ADA.
- ◆ Section 503(b) makes it unlawful to “coerce, intimidate, threaten or **interfere**” with an individual who attempts to exercise ADA rights or one who assists or encourages others to do so.



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EEOC Enforcement, cont’d

- ◆ In its guidance, the EEOC notes the interference provisions of the ADA are broader than the statute’s anti-retaliation provisions.
- ◆ Actions that may not be materially adverse for a retaliation claim may suffice for an interference action.
- ◆ According to the EEOC, an individual pursuing relief under the interference provision need not be a qualified person with a disability.



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EEOC Enforcement, cont'd

- ◆ The EEOC has indicated that the following fact patterns constitute interference:
 - After an employee requests from HR an accommodation of telecommuting, her manager tells her that if she drops her formal request, the manager will allow her to work at home on an informal basis; if she does not drop her formal request, the manager threatens to tell HR that the job can only be performed on site.
 - After a former employee is denied an accommodation, he files a charge of discrimination. The EEOC requests names and contact information of dozens of similarly situated employees as part of its investigation. Before giving the names of the employees to the EEOC, the company writes letters to the employees, identifying the charging party by name, stating he has filed a charge of discrimination under the ADA and describing his medical restrictions. The company also offered the similarly situated employees to have a company attorney present in the event an EEOC investigator conducted interviews. The EEOC viewed the employer's actions as coercive and interfering with the similarly situated employees' rights to exercise their ADA rights.

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DOL Issues: Rejection of DOL's New Salary Basis Test

- ◆ On 11/21, Judge Mazzant (E.D. Tex.) preliminarily enjoined the DOL's proposed increase to the salary basis test to the white collar exemptions. Nationwide injunction issued.
- ◆ Change would have increased salary basis from \$455 per week to \$913/week(\$47,476 annually)
- ◆ Court held that Congress intended the duties test to be the primary factor differentiating exempt from non-exempt employees for the white collar exemptions
- ◆ This amount of salary increase effectively trumped the duties test, which was not the intent of Congress.
- ◆ No automatic updates either.
- ◆ The decision has been appealed to the 5th Circuit Court of Appeals.



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DOL Issues (cont.)

- ◆ Since the DOL first announced its proposed rule, various bills have been introduced in Congress to block, delay, or slow the salary level increases in the Final Rule.
- ◆ While President Obama would have vetoed these bills if passed, Trump might sign such a law.
- ◆ Such legislation might moot the Texas lawsuit.
- ◆ Under the Trump Administration, the DOL might rescind the Final Rule, but would need to follow the procedures set forth in the Administrative Procedure Act, which will take time.

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DOL Issues: What Happens Now?

- ◆ December 1 has now passed, and the new salary basis regulations are not the law so no need to comply
- ◆ There is an extremely small possibility of a reversal; for that reason advising that for anyone that you would have reclassified as non-exempt that you keep accurate records of hours of work until the issue is finally resolved
- ◆ That way, if there would be a reversal, you can quickly make back payments in case plaintiffs' attorneys argue for retroactive application (which they will do)



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DOL Issues: What Happens Now?

- ◆ Trump could have directed the DOL to abandon its appeal, but has not yet done so.
- ◆ If appeal would be withdrawn, the most likely result is that the preliminary injunction becomes permanent and the salary basis increase is dead
- ◆ There is also the possibility that the new Congress passes a law that either makes it clear there is no salary basis component of the exemption or adopting a much lower threshold than \$47,476. That would stop the Court proceedings in their tracks.



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DOL Issues: What Do I Do if I Have Already Communicated the Change?

- ◆ Even if there is a reversal, the State of Nevada can appeal further all the way to the Supreme Court
- ◆ If you have already communicated the change and believe you will have an employee relations issue reversing course, then consider making the difference between what you would have paid and what you are now paying a performance-based bonus rather than straight salary
- ◆ If you have not already communicated the change, it is acceptable to rescind planned changes, but track hours.



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More DOL Issues

- ◆ Under Trump, the DOL is expected to be more business-friendly, and to shift its focus to achieving compliance rather than aggressive enforcement.
- ◆ The DOL is expected to permit employers greater flexibility in using independent contractors, for example, and provide businesses with more certainty in expanding through use of franchises.

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R. Alexander Acosta nominated as Secretary of Labor

- ◆ Acosta appointed after Andy Puzder withdrew his nomination for Secretary.
- ◆ He is the son of Cuban immigrants.
- ◆ He serves as Dean of Florida International University Law School.
- ◆ He served as law clerk to Justice Samuel Alito.
- ◆ He was a former attorney at Kirkland & Ellis.
- ◆ Acosta was confirmed by the Senate: (1) to become an NLRB member; (2) Assistant Attorney General for the Civil Rights Division of the U.S. Department of Justice, and (3) when he was nominated to be U.S. Attorney for the Southern District of Florida.
- ◆ Acosta was appointed by President George W. Bush as member of the NLRB and served as Board member from December 2002 through August 2003.
- ◆ Acosta served as Assistant Attorney General for the Department of Justice's Civil Rights Division under President George W. Bush until June 2005.
- ◆ Likely to be confirmed as new Secretary of Labor.

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DOL Opinion Letters

- ◆ Under President Obama, the DOL discontinued its longstanding practice of issuing opinion letters signed by the Administrator of the Wage and Hour Division, choosing instead to issue less frequent "Administrator Interpretations" with wider applicability and scope, but less specificity.
- ◆ The practice of issuing official opinion letters regarding application of the FLSA and FMLA may be restored.

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Status of Expansion of "Joint Employment"

- Two significant Administrator Interpretations were issued in the past two years... Both are viewed as clear efforts to expand the rights of workers...

Horizontal lines for notes.

DOL: OFCCP

- The General Accounting Office recently issued a report critical of various controversial OFCCP enforcement methods... Under Trump-appointed DOL and OFCCP leadership, OFCCP may move away from aggressive enforcement methods...

Horizontal lines for notes.

Defend Trade Secrets Act (DTSA) and Related Issues

- DTSA creates a new federal civil cause of action for the misappropriation of trade secrets... Permits successful plaintiffs to recover attorney's fees and exemplary damages... Should all new agreements contain new notice language to preserve these potential remedies?

Horizontal lines for notes.

Defend Trade Secrets Act and Related Issues

- ◆ Sample language: "Under the federal Defend Trade Secrets Act of 2016, Employee shall not be held criminally or civilly liable under any federal or state trade secret law for the disclosure of a trade secret that: (a) is made (i) in confidence to a federal, state, or local government official, either directly or indirectly, or to an attorney; and (ii) solely for the purpose of reporting or investigating a suspected violation of law; or (b) is made to Employee's attorney in relation to a lawsuit for retaliation against Employee for reporting a suspected violation of law; or (c) is made in a complaint or other document filed in a lawsuit or other proceeding, if such filing is made under seal."

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Defend Trade Secrets Act and Related Issues

- ◆ To which documents do you consider adding this language? Any document that has non-disclosure language.
- ◆ Employment agreements
- ◆ Non-disclosure agreements
- ◆ Non-compete/solicit agreements
- ◆ Offer letters
- ◆ Stock option/equity documents
- ◆ Severance agreements?



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More on Post-Employment Restrictions

- ◆ The new administration is unlikely to continue recent White House initiatives to prohibit non-compete agreements, arising from an April 2016 Executive Order directing agencies to increase competition for consumers and workers.
- ◆ The "Antitrust Guidance for Human Resource Professionals" issued by the Department of Justice and Federal Trade Commission is not likely to continue as a priority for the new administration. This guidance threatened criminal prosecution of HR professionals who enter into "naked" no-poach agreements.
- ◆ White House "Call to Action" suggesting that states enact legislative reforms to reduce the use of non-compete agreements is unlikely to garner support in the Trump administration.

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Class Action Waivers Update

- ◆ Circuits split on whether they are enforceable.
- ◆ Enforceable in 5th and 8th Circuits
- ◆ Unenforceable in 7th and 9th Circuits
- ◆ On September 9, the NLRB filed an appeal with the U.S. Supreme Court
- ◆ Two private companies filed similar appeals in September
- ◆ What are employers doing in the meantime?

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National Labor Relations Board

- ◆ Trump named current NLRB Board member, Philip A. Miscimarra, as acting chair.
- ◆ The NLRB is a five-member board typically composed of two members from each political party, plus a fifth from the President's party.
- ◆ Under President Obama, the NLRB drastically changed existing policies and precedents for both unionized and non-union employers, resulting in a significant increase in pro-union decisions.
- ◆ There are two open seats on the Board right now, with a third scheduled to open next year.
- ◆ These open seats will be filled by Trump appointees, ultimately resulting in a more business-oriented NLRB.

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NLRB Developments--The Good News: What We Can Expect When a New Labor Relations Board is Seated

- ◆ Current composition of the NLRB is 2-1 Democratic majority, with 2 vacant seats.
- ◆ Rollback of various current initiatives:
 - More lenient definition of joint employer (Browning-Ferris)
 - Inclusion of temporary workers in units (Miller & Anderson)
 - Expansion of Weingarten Rights to non-union workplaces (IBM)
 - Prohibition of class action waivers (Murphy Oil)
 - Creation of a new standard for micro-units (Specialty Healthcare)
 - Restrictions on electronic communications (Purple Communications)
 - Employee/independent contractor misclassification issues (as separate violation of NLRA).
 - Status of college/university adjunct faculty, graduate students, and student athletes.
- ◆ Probable retraction of Executive Orders
- ◆ Likely death of the "Persuader Rule" changes, which are currently enjoined.

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National Labor Relations Board (cont.)

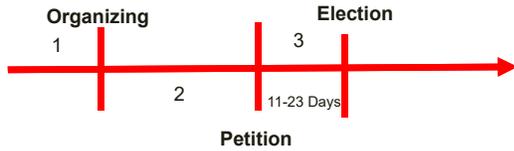
- ◆ Trump also may work with Congress to pass legislation to reverse several NLRB decisions from recent years, including employee-friendly rulings on joint employment.

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NLRB Developments--The Bad News: What Will Likely be Left Standing? The Expedited Election Rule



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NLRB Developments--The Bad News: What Will Likely be Left Standing? Protected Concerted Activity

- ◆ Section 7 of the NLRA covers protected concerted activity by employees.
 - Employees may engage in "concerted activities for the purpose of collective bargaining or other mutual aid or protection."
- ◆ Applies equally to unionized *and* union-free workplaces.
- ◆ Protected concerted activity as an exception to the employment at-will doctrine.
- ◆ Many policies and procedures will likely continue to be scrutinized.

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NLRB Developments—Do Not Forget the Need for a Preventive Approach

- ◆ Develop a strategic, comprehensive, integrated labor relations plan.
- ◆ Train legal, HR, and all other members of management to be prepared.
- ◆ Conduct a Legal /HR vulnerability assessment.
- ◆ Update employee handbooks and policies.
- ◆ Assess status of potential supervisors.
- ◆ Conduct a bargaining unit analysis.
- ◆ Train a Rapid Response Team.

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EEOC: EEO-1 Pay Data Reporting

- ◆ Final rules issued on September 29, 2016 revise the EEO-1 report to include W-2 earnings and work hours for some employers.
- ◆ These rules, which are scheduled to take effect in March 2018, are intended to assist the EEOC in investigating compliance with equal pay laws.
- ◆ Employer groups raised serious concerns about the burdens associated with the new reporting.
- ◆ The new administration is likely to rescind the changes before first reporting is due in 2018, or may revise the reporting requirements to ease the burden on employers.

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OSHA Post-Accident Drug Testing

- ◆ New 2016 OSHA rule on injury and illness reporting. The rule itself is silent on post-accident drug testing.
- ◆ In OSHA's comments, it interprets the rule as prohibiting mandatory post-accident drug testing.
- ◆ According to OSHA's comments, employers should "limit post-incident testing to situations in which employee drug use is likely to have contributed to the incident, and for which the drug test can accurately identify impairment caused by drug use."
 - In many accident cases, how can employers prove that drug use "likely" contributed to the accident?
 - In many cases, drug tests only reveal the presence of the drug, and cannot accurately identify impairment caused by drug use.

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OSHA Post-Accident Drug Testing

- ◆ Current status: a Texas court denied injunctive relief to the plaintiff. So the OSHA rule has not been enjoined.
- ◆ Should employers plan to discontinue or limit post-accident drug testing? Probably not. Continue to follow your policies requiring uniform post-accident drug testing.
 - OSHA likely lacks the authority to prohibit post-accident drug testing.

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Paid Maternity Leave

- ◆ Trump has proposed requiring employers to provide six weeks of full or partially-paid maternity leave.
- ◆ This plan would likely be implemented by amending existing unemployment statutes.
- ◆ Critics contend the plan would only provide benefits to married women – not single women or men – and only to those who give birth rather than adopt.
- ◆ Some commentators note that Republican lawmakers have resisted paid maternity leave proposals, but might consider allowing earned “comp time” to be used for maternity leave.

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Paid Maternity Leave

- ◆ In his speech to Congress this week, President Trump addressed the need for Congress to work to “ensure new parents have paid family leave.”
- ◆ There is pending federal legislation that would establish a national paid family and medical leave insurance program, funded by contributions from employers and workers.
- ◆ The current debate in Congress on this issue appears to be around whether paid leave should be mandated, or there should be incentives provided to employers who offer paid leave to workers.

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Other Worker-Friendly Trump Proposals

- ◆ Tax deductions available for child care and elder care
- ◆ An expanded Earned Income Tax Credit as a child care rebate
- ◆ A dependent care savings account to complement the existing dependent care flexible spending account

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Ohio House Bill 2

- ◆ Pending (introduced on February 1, 2017)
- ◆ Key provisions would significantly change Ohio's antidiscrimination statute, to:
 - Eliminate individual liability for supervisors and managers (and move Ohio law in line with federal antidiscrimination law).
 - Reduce the statute of limitations to file claims (from 6 years to 1 year).
 - Modify procedures for asserting claims.
 - Including by requiring employees to choose between filing an administrative charge with the Ohio Civil Rights Commission or filing a civil lawsuit (versus being allowed to pursue both at the same time).

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THANK YOU

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