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**March 31, 2022**

## Welcome

Welcome to the first issue of the 2022 edition of *SuperVision*.

Before we discuss the contents of this e-newsletter, we would like to cordially invite you to the 2022 DRI Employment & Labor Law Seminar on May 11–13, 2022 in Denver, Colorado. Always intensely practical, with invaluable education sessions, this seminar is indispensable for experienced practitioners as well as those new to labor and employment law. We are a sponsor and our own Eric Kinder is the chair of the program. Kevin Carr also will be in attendance and presenting. You can learn more and register by clicking [here](#).

The topics in this issue include:

- Carrie Grundmann discusses the impact of the "Ending Forced Arbitration of Sexual Assault and Sexual Harassment Act of 2021" on employer's arbitration provisions.
- Victoria Creta analyzes COVID-19 as a disability under the ADA.
- Sarah Kowalkowski considers when caregiver discrimination may be unlawful under employment discrimination laws.
- Mitch Rhein looks at what you can do now to prepare for vigorous DOL enforcement.
- Chelsea Thompson dives into trends in paternity leave.

We hope you find these articles informative. If you have any questions about these topics or suggestions for future articles, [please let us know](#).

[Eric W. Iskra](#), Chair, Labor & Employment Practice Group  
[Carrie H. Grundmann](#), Executive Editor, *SuperVision*

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**The Impact of "Ending Forced Arbitration of Sexual Assault and Sexual Harassment Act of 2021" on Employer's Arbitration Provisions**

**By: Carrie H. Grundmann**

On March 3, 2022, President Biden signed into law H.R. 4445, "Ending Forced Arbitration of Sexual Assault and Sexual Harassment Act of 2021." This law amends the Federal Arbitration Act related to arbitration agreements to the extent they require arbitration of sexual assault and sexual harassment claims in employment. For any claims arising after March 3, 2022, employees now have the option to reject these arbitration agreements in favor of bringing claims in court or via a class or collective action.

Click [here](#) to read the entire article.

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## **Evaluating COVID-19 as a Disability Under the ADA**

**By: Victoria L. Creta**

In December 2021, the Equal Employment Opportunity Commission updated its guidance, clarifying that COVID-19 may qualify as a disability under the American with Disabilities Act ("ADA"). The ADA is applicable to private employers with 15 or more employees, state and local governments, employment agencies, and labor unions. To the extent an individual with COVID-19 and/or long-haul symptoms of COVID-19 (defined as new, returning, or ongoing health problems four or more weeks after being infected with the virus that causes COVID-19) has a "disability" within the meaning of the ADA, employers will need to engage in the interactive process to determine whether the employer can reasonably accommodate the employee.

Click [here](#) to read the entire article.

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## **When Caregiver Discrimination May be Unlawful Under Employment Discrimination Laws**

**By: Sarah E. Kowalkowski**

Over the past two years, we have heard much about the burden on "caregivers" during the pandemic. Whether it was caring for school age children while school was remote and daycare closed, or caring for elderly family members, the pandemic has cast a light on caregivers. Even now, many employees live in households with people who are immunocompromised and may be more reluctant to return to the workplace or to engage with others or travel for work in the manner they did in the past. Other employees may have young children who cannot yet be vaccinated against COVID-19 or are still attending school virtually. In March 2022, the U.S. Equal Employment Opportunity Commission released guidance addressing situations in which caregiver discrimination may be unlawful under federal employment discrimination laws.

Click [here](#) to read the entire article.

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## **The DOL Plans "Vigorous" Enforcement to Protect Employees Working in Logistics – What You Can Do Now to Prepare for More Investigations**

**By: Mitchell J. Rhein**

The U.S. Department of Labor's Wage and Hour Division ("WHD") recently announced it was hiring 100 investigators and planned "vigorous" enforcement of wage and hour laws in the warehouse and logistics industries. The resulting equation is simple:

**More WHD investigators + "Vigorous" enforcement = More WHD investigations**

Click [here](#) to read the entire article.

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## Trends in Paternity Leave

**By: Chelsea E. Thompson**

Parental leave was, once again, in the forefront of public discourse, as the internet debated the appropriateness of Parag Agrawal, the CEO of Twitter, announcing his intention to take “a few weeks” off work following the birth of his second child. While much of the debate hinged on this man’s very personal decision, it also sparked a larger conversation about parental leave in the United States—after all, Agrawal was only able to take paid time off to care for his new child and partner because he worked for an employer who voluntarily offers it as a benefit to its employees.

Click [here](#) to read the entire article.

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