



THE KULLMAN FIRM

A PROFESSIONAL LAW CORPORATION

CLIENT E-NEWSLETTER

SPECIAL BULLETIN

Two Important Employment Law Developments

OSHA Finalizes Workplace Injury Reporting Rule

On May 11, 2016, the Occupational Safety and Health Administration (OSHA) finalized a record-keeping and reporting rule that requires employers to electronically submit information about workplace injuries and illnesses and bars employers from retaliating against workers for reporting such incidents. The final rule becomes effective January 1, 2017.

Electronic Submission Requirements

Establishments with 250 or more employees (who are currently required to keep OSHA injury and illness records) must electronically submit information contained in OSHA Forms 300¹, 300A², and 301³. Establishments with 20-249 employees in designated hazardous industries must electronically submit information contained in OSHA Form 300A. Form 300A information must be submitted by July 1, 2017. Forms 300 and 301 information must be submitted by July 1, 2018. Beginning in 2019, the submission deadline will change from July 1st to March 2nd. The electronic submission requirements will not change an employer's current obligation to complete and retain injury and illness records.

OSHA will post the establishment-specific injury and illness data it collects on its public website (www.osha.gov). That in turn will allow employees, labor unions, competitors, and the general public to access such injury and illness information on each reporting employer. Any personally identifiable information will be removed before the data is released to the public. The final rule also allows OSHA, upon written notification, to collect requested information from employers with less than 20 employees or with 20-249 employees in non-designated hazardous industries. States that operate their own job safety and health programs, also called OSHA State Plan states, must adopt substantially identical requirements within six months after the publication of the final rule.

Employees' Right to Report Free From Retaliation

Employers must also inform employees of their right to report workplace injuries and illnesses without retaliation. This obligation may be met by posting the OSHA *Job Safety and Health* Poster (April 2015 edition or later). Employers must also adopt reasonable procedures that do not discourage or deter an employee from reporting a workplace injury or illness.

¹ OSHA Form 300 is a log of work-related injuries and illnesses on which an employer is required to supply information regarding an employee's work-related injury or illness. This information includes the employee's name, date of injury, the location of the accident, a description of the injury, and the result of the injury (i.e. missed time from work, death, etc.).

² OSHA Form 300A is a summary of work-related injuries and illnesses on which an employer is required to supply information regarding the total number of deaths, cases with days missed from work, cases with job transfer or restriction, etc.

³ OSHA Form 301 is an injury and illness report on which an employer is required to supply more specific information than that contained in Form 300. This includes the employee's name, address, date of birth, date of hire, information about the treating physician, information about the case, etc.

Continued on page 2

Continued from page 1

President Obama Signs Federal Trade Secrets Law

On May 11, 2016, President Obama signed the Defend Trade Secrets Act into law. The new law allows companies to file federal civil lawsuits for the theft of trade secrets. Unlike patents, copyrights, and trademarks, trade secrets have until now been exclusively handled at the state level so that an employer's only recourse for trade secret theft was either to sue under various state laws or in rare circumstances, lobby federal prosecutors to bring criminal charges. According to the Commission on the Theft of American Intellectual Property, the theft of trade secrets costs the economy more than \$300 billion a year.

In addition to granting access to federal courts, the new law allows courts (in extraordinary circumstances) to issue *ex parte* seizure orders to prevent the dissemination of trade secrets. The new law also includes a provision preventing injunctions that unfairly limit employee mobility and another provision that protects whistleblowers who disclose trade secrets in the course of reporting unlawful behavior. The new law will not preempt state laws, but rather co-exist with state-level trade secret laws.

If you have any questions please contact the attorney with whom you usually speak.

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