

Thursday, December 20, 2007

Labor and Employment Update: Update on Arizona's Employer Sanctions Law

By Nancy-Jo Merritt and Matthew J. Martinez

Last week we sent you an Alert regarding U.S. District Court Judge Neil Wake's ruling dismissing the lawsuit against Arizona's new employer sanctions law. As we mentioned, on December 10, a new lawsuit was filed with the U.S. District Court in Phoenix naming Arizona's 15 county attorneys, the Arizona Registrar of Contractors, and the Arizona Attorney General, essentially setting forth the same allegations and legal claims asserted in the previous lawsuit. The plaintiffs also filed a request for a temporary restraining order (TRO) to stop implementation of the law before the court can decide on the merits of the case. The new lawsuit was assigned to Judge Wake.

On Tuesday, December 18, 2007, a hearing was held to address the TRO request. Reports from those in attendance were that comments made by Judge Wake suggested he might not be inclined to grant the TRO, and that he was critical of the plaintiffs for naming the wrong defendants in the original lawsuit. No decision was made at the hearing, but Judge Wake stated he would rule on the application for the TRO by the end of this week.

Representatives from the county attorneys who were named in the latest lawsuit attended the hearing, and indicated that they would not initiate any court action against employers until at least February 1, 2008, barring any egregious cases that would require immediate action. The county attorneys also agreed to give notice to the court and the plaintiffs prior to initiating any court action before February 1, 2008.

We will continue to monitor these developments closely, and we will notify you as soon as Judge Wake issues his decision on the TRO.

Nancy-Jo Merritt focuses her practice in immigration law and has nearly three decades of experience representing domestic and international companies with issues concerning foreign national employees and business immigration matters. She provides strategic counseling to clients and assists employers in developing compliance programs. She earned her B.A. (1964), M.A. (1974) and J.D. (1978) from Arizona State University.

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