

## Restaurant Industry Workplace Law Update – Fall 2019

By Felice B. Ekelman and Margaret J. Strange

December 13, 2019

To assist restaurant owners and professionals in assessing emerging employment risks, we are pleased to provide the first issue of our newsletter. The *Restaurant Industry Workplace Law Update* highlights topical issues in claims, defenses, and liability risk management developments.

### Supreme Court's *Epic Systems* Decision on Arbitration Interpreted Broadly by Labor Board

The National Labor Relations Board recently held that employers may lawfully issue employees new or revised mandatory arbitration agreements containing class and collective action waivers even if it was rolled out in response to the employees opting into a collective action. While the NLRB opinion does not affect the enforceability of the arbitration agreements (an issue reserved for the courts to decide), the NLRB's decision clarifies for employers that they may roll out these agreements without fear of violating the Act. The decision, of course, could change with a change in the administration. [Read full article ...](#)

### Illinois Enacts Workplace Harassment Law, Creating New and Expanded Obligations for Employers

On January 1, 2020, Illinois' new law will set new obligations for restaurants operating in the state. Public Act 101-0221 enacted the Workplace Transparency Act, amended the Illinois Human Rights Act, expanded the Victims' Economic Security and Safety Act, and established the Hotel and Casino Employee Safety Act. Each of these dramatically changes the landscape of operating in Illinois and enlarges the protections afforded to employees in the state. Restaurants operating in Illinois should review their employment agreements, policies, training materials, and severance agreements in light of these changes before January 1, 2020. [Read full article ...](#)

### Chicago City Council Passes Comprehensive Fair Workweek Law that Includes Predictable Scheduling

Effective July 1, 2020, Chicago will require most large employers to provide workers with at least two weeks' advance notice of their work schedules, and to compensate workers for last-minute changes. This law applies to employers with more than 100 employees globally (or 250 in the case of not-for-profit corporations), have at least 50 covered employees within a specific pay range, and are primarily engaged in a covered industry such as hotels, restaurants, and retail. [Read full article ...](#)

### Labor Department Proposes Changes to Clarify Use of FLSA's 'Fluctuating Workweek' Pay Method

With many employees that work on variable schedules, restaurant employers could stand to benefit from a fixed salary pay method as outlined by the Department of Labor's (DOL) "fluctuating workweek" (FWW). Despite this, there has been reluctance to use the FWW pay method due to confusion over obligations regarding overtime. Now, with DOL proposed changes to clarify FWW, employers may want to reconsider. [Read full article ...](#)

Please contact a Jackson Lewis attorney with any questions about these and other emerging employment issues.

©2019 Jackson Lewis P.C. This material is provided for informational purposes only. It is not intended to constitute legal advice nor does it create a client-lawyer relationship between Jackson Lewis and any recipient. Recipients should consult with counsel before taking any actions based on the information contained within this material. This material may be considered attorney advertising in some jurisdictions. Prior results do not guarantee a similar outcome.

Focused on labor and employment law since 1958, Jackson Lewis P.C.'s 950+ attorneys located in major cities nationwide consistently identify and respond to new ways workplace law intersects business. We help employers develop proactive strategies, strong policies and business-oriented solutions to cultivate high-functioning

### Meet the Authors



**Felice B. Ekelman**

Principal  
New York Metro  
New York City 212-545-4005  
Email



**Margaret J. Strange**

Principal  
Hartford 860-331-1554  
Email

### Practices

Class Actions and Complex Litigation  
Labor Relations  
Litigation  
Wage and Hour  
Workplace Training

### Services

Alternative Dispute Resolution

### Industries

Hospitality

workforces that are engaged, stable and diverse, and share our clients' goals to emphasize inclusivity and respect for the contribution of every employee. For more information, visit <https://www.jacksonlewis.com>.

---

©2022 Jackson Lewis P.C. All rights reserved. Attorney Advertising. Prior results do not guarantee a similar outcome. No client-lawyer relationship has been established by the posting or viewing of information on this website.

\*The National Operations Center serves as the firm's central administration hub and houses the firm's Facilities, Finance, Human Resources and Technology departments.