Effective October 26, 2004, the City Council of New York enacted the “Equal Benefits Law.” This legislation was passed despite being vetoed by Mayor Michael Bloomberg. The legislation amended the New York City Administrative Code Sec. 6-126 to require that companies with contracts with the City of New York valued at over $100,000 provide employees with domestic partners the same benefits as they provide to employees with spouses. Both employees who work at any of the covered City contractor’s operations that are located within the City and employees who work at any of the City contractor’s operations located outside the city but who work directly on fulfilling the requirements of the contract were provided with the right to domestic partner benefits.

On December 1, 2004 the Supreme Court, New York County, directed Mayor Bloomberg to immediately implement and enforce the law. Challengers to the law, including Mayor Bloomberg, continued to insist that the law created an advantage for companies located outside the city because businesses would be motivated to relocate outside the city in order to avoid unduly burdensome requirements for compliance and the consequences of non-compliance. Furthermore, challengers argued that the law is intolerant and discriminatory against religious organizations that do not recognize domestic partner relationships. The challengers appealed the court’s decision directing implementation, and during the appeal enforcement was stayed per the parties’ agreement.

On March 15, 2005, the New York Supreme Court, Appellate Division, First Department, issued a decision invalidating the law. In In Re Council of the City of New York v. Michael R. Bloomberg et. al, 2005 N.Y. Slip. Op. 01843, the Appellate Division held that the law was improperly enacted because the lower court ignored the issue of the statute’s validity. As such, it violated a principal purpose of bringing a writ of mandamus and could theoretically “require the executive branch to enforce even the most patently unlawful legislation until a court order of nullification were obtained.” Further, the Appellate Division stated that had the lower court looked at the preemption issues, it would have invalidated the statute because it is contrary to General Municipal Law provisions which “seek to protect the public by obtaining the best work at the lowest possible price, and to prevent favoritism, improvidence, fraud and corruption in the awarding of public contracts.” In addition, the Appellate Division stated that the law intruded upon the requirements of the Federal Employee Retirement Income Security Act (ERISA) because it “mandate(s) employee benefit structures or their administration.”

At the request of Fordham University, Jackson Lewis LLP filed an amicus brief supporting the Mayor’s arguments that the law should be invalidated on the ground of ERISA preemption and because, if enacted, it could exclude “longstanding responsible bidders” such as Fordham from obtaining New York City contracts. Jackson Lewis attorneys Joseph DeGiuseppe, Jr. and Jonathan M. Kozak prepared Fordham’s amicus brief and assisted NYC Corporation Counsel attorneys in framing the ERISA preemption argument before the First Department. Many of the arguments set forth in the firm’s amicus brief were recognized by the court in invalidating the law.

For more information, please contact Jackson Lewis attorneys Richard I. Greenberg or Michelle E. Phillips.
Pay the Piper – California Employers Pressed to Pay Arbitration Fees or Risk Harsh Consequences

California employers may face harsh consequences for failing to pay arbitration fees on time under a bill (Senate Bill 707) signed by Governor Gavin Newsom on October 13, 2019. The new law goes into effect on January 1, 2020. Under the new law, if an employer fails to pay fees required for the commencement or continuation of an...

New California Law Attacks Mandatory Arbitration Again ... But Is It More Bark Than Bite?

California has joined a number of states in passing legislation purporting to prohibit mandatory arbitration agreements for sexual harassment and other claims. Such laws have gained popularity in the wake of the #MeToo movement, but are subject to challenge under Federal Arbitration Act (FAA) preemption principles. (See our articles...)

Third-Party Harassment and Discrimination: The Customer Isn’t Always Right

As fiscal year 2019 ends for the Equal Employment Opportunity Commission (EEOC), it has announced it is pursuing several new discrimination suits, including one alleging a casino failed to protect female staffers from sexual harassment by patrons. Sexual misconduct and harassment have been in the national spotlight more than ever and...