

# POLICY MATTERS

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**Arbitration Under Attack in the House.** Today, the House Judiciary Committee's Subcommittee on Antitrust, Commercial and Administrative Law held a [hearing](#) titled "Justice Denied: Forced Arbitration and the Erosion of our Legal System." The hearing focused on whether predispute binding agreements were really voluntary, their effects on employees and consumers and the advantages and disadvantages of arbitration vs. the court system. With witness Gretchen Carlson (formerly of Fox News) laying the ground work, there was also much discussion on the effects of non-disclosure requirements. Representatives Nadler and Scott, chairs of the House Judiciary and Education and Labor Committees, respectively, also [reintroduced](#) the "Restoring Justice for Workers Act," which would prohibit the use of predispute arbitration clauses in employment contracts (not limited to sexual harassment) and prohibit employers from requiring employees to waive the right to engage in joint class or collective legal action. It would also impose certain requirements on post-dispute arbitration agreements. The Act would be enforced through civil action, with remedies similar to those under Title VII of the 1964 Civil Rights Act. Sen. Murray, Ranking Member of the Senate HELP Committee, introduced parallel legislation in the Senate.

**Immigration Reform Back in the Limelight.** Today, the President announced principles for immigration reform centered on the theme that the current system should be restructured to favor immigrants with higher skills over family-based immigration. The proposal did not include relief for DACA recipients or address the controversial question of how to handle the approximately 12 million undocumented immigrants already in the country. Under the announced plan, a point system would be assigned to evaluate immigrants and their skill levels, with extra points being given to those who have demonstrated some affinity for the country's values (for example, demonstrated English proficiency and civics knowledge). Family immigration apparently would be significantly cut, but the overall levels of immigration would remain approximately the same. The concept of points for skills is not a new one and was contained in the 2008 legislation which overwhelmingly passed the Senate; the President's initiative, however, takes a different approach on how this concept is interrelated with family-based immigration and other issues. At best, this proposal is a starting point for continued debate on this intractable issue.

**DOL Staffing News.** This week saw some big developments in the ongoing saga of high-level vacancies at the Department. First, Secretary Acosta's Chief of Staff, Nick Geale, announced that he will be moving on at the end of the month. Fresh on the heels of that announcement, the nominee for OSHA Assistant Secretary Scott Mugno (formerly of FedEx) withdrew his name from consideration for the position after his nomination had been pending in the Senate for nearly two years.

**DOL Regulatory Comment Deadlines Extended.** With three rulemakings in full swing, the Department has decided to grant some relief to those preparing comments. The proposals on [regular rate](#) and [joint employment](#) under the FLSA have had their comment periods extended to June 12 and June 25, respectively. Comments to the regulatory proposal addressing the [salary threshold](#) for FLSA exempt status remain due on May 21.

**Non-Competes Dealt a Blow in the “Other” Washington.** Washington state has joined the ranks of an ever-growing number of states that impose significant restrictions on employee non-compete agreements. The law will go into effect on January 1, 2020. For more, see Seyfarth’s [Client Alert](#).

**... As Were Questions About Salary History.** Last week, Washington Governor Inslee signed the “Washington Equal Pay and Opportunities Act,” which bans employers from asking about prior salary and will require employers to provide pay scale or wage information to both applicants and internal employees, if requested. The law applies to all employers with at least 15 employees and it goes into effect in July 2019. See Seyfarth’s [Client Alert](#) for more.

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