Preface

This Supplement covers legal developments up through July 2026. Some of the major developments are summarized below.

Colorado Statutes

- SB26-189, A Bill Concerning the Use of Automated Decision-Making Technology in Consequential Decisions, enacted May 14, 2026, to supersede the 2024 Automated Decision-Making Technology in Consequential Decisions law (SB 24-205). SB26-189 governs "consequential decisions" using artificial intelligence in a number of areas, including in employee compensation, eligibility or selection for an employment opportunity and review and hiring of job applicants. Promulgation of rules under SB26-189 is on hold due to a Joint Motion filed in a pending legal challenge in the case of U.S. and Elon Musk's X.AI LLC v. Philip Weiser, Colorado Attorney General. See § 1:1.15.
- HB26-1283, Protections Regarding Seizures of Identification Documents, which law is effective as of June 3, 2026, and restricts possession and confiscation of government issued identification. § 1:3.
- SB26-121, enacted May 5, 2026. Beginning January 1, 2027, the act requires an agricultural employer to pay certain agricultural employees overtime pay for time worked in excess of 56 hours in a workweek. The act also increases penalties for an agricultural employer who commits wage theft and repeals the authority of the director of the division of labor standards and statistics to adopt rules concerning overtime pay for agricultural employees. § 4:31.

Court Decisions

- By the Rockies LLC v Perez: Colorado Supreme Court reverses Court of Appeals, dated September 15, 2025, holds that a two year statute of limitations, not the default six year limitations, applies to Colorado Minimum Wage Act claims – aligning Colorado with federal and other states' statutes of limitations. See § 4:27.
- Federal Trade Commission (FTC) abandons national non-compete clause ban on September 5, 2025, in response to U.S. District Court for Northern District of Texas vacating the rule on a nationwide basis (Ryan, LLC v. Fed. Trade Comm'n, 746 F. Supp. 3d 369, 390 (N.D. Tex. 2024). The District Court held FTC lacked authority under FTC Act to make substantive rules for non-competition matters

and that the national non-compete rule was 'arbitrary and capricious' under Administrative Procedure Act. § 7:1.

- Dept. of Labor formally rescinded the 2024 overtime salary threshold increases on May 14, 2026 by technical amendment in response to decision in Texas v. United States Dep't of Lab., 756 F. Supp. 3d 361, 399 (E.D. Tex. 2024) – the District Court vacated on a nationwide basis the 2024 increases in overtime salary thresholds under FLSA and the 2019 thresholds (as of January 1, 2020) were reinstated. § 4:9.
- Sixth Circuit heightens the standard for showing irreparable harm to support injunctions under § 10(j) of National Labor Relations Act - Kerwin v. Trinity Health Grand Haven Hosp., No. 24-1975 (May 1, 2026). § 2:15.
- Moreno v. Circle K Stores, Inc., June 15, 2026, Colorado Supreme Court. First Impression Case: Self Defense is a Public Policy Exception to Termination of At Will Employment - despite employee manual policy of not confronting shop lifters. § 3:13.
- Trump v. Barbara, 146 S. Ct. 2438 (2026). U.S. Supreme Court strikes down Executive Order No. 14160 seeking to severely limit birthright citizenship and eliminate constitutional protections (including employment related ones) for birthright citizens and potentially for their offspring. § 17:13.

Colorado Regulation

- Colorado Overtime & Minimum Pay Standards Order #40 (COMPS Order), 7 CCR 1103-1, was adopted as of December 8, 2025, with summary of rule changes under Colorado Wage Act. § 4:2.

Federal Regulation

- FTC abandons National Non-Compete Ban on September 5, 2025, in response to rule being vacated on a national basis by U.S. District Court for the Northern District of Texas, Ryan, LLC v. Fed. Trade Comm'n, 746 F. Supp. 3d 369 (N.D. Tex. 2024). § 7:1.
- In 2026, FTC switches to a case-by-case basis reviewing non-compete agreements for violation of § 5 of FTC Act, § 7:1.
- FTC sends Warning Letter about impermissible non-compete agreements under the FTC Act to 13 companies, April 14, 2026. § 7:1.
- On February 26, 2026, the U.S. Department of Labor announced a Notice of Proposed Rulemaking (NPRM) to revise its analysis for distinguishing between employees and independent contractors under the Fair Labor Standards Act (FLSA). Notice of Proposed Rule: Employee or

Independent Contractor Status Under the Fair Labor Standards Act, Family and Medical Leave Act, and Migrant and Seasonal Agricultural Worker Protection Act, RIN 1235-AA46, Feb. 26, 2026. § 4:9.

- EEOC voted on June 29, 2026, to rescind the EEOC's interpretive guidelines titled "Affirmative Action Appropriate Under Title VII of the Civil Rights Act of 1964 as Amended" (Affirmative Action Guidelines) and the related "Compliance Manual § 607 on Affirmative Action" (Compliance Manual on Affirmative Action). This action is in furtherance of second Trump Administration's efforts to dismantle most of federal government's affirmative action and diversity programs. § 16:2.
- Form I-9: USCIS eliminates 10-day cure period for 10 categories of mistakes and reclassifies as substantive errors subject to fines. § 1:2.
- Defend Trade Secrets Act Notice – Disclosure of Trade Secrets – contract provision for Severance, Non-Disclosure and Employment Agreements. § 7:4.
- SEC Rule 21F-17(a) (Whistleblower Protection) contract provision for Severance, Non-Disclosure and Employment Agreements. § 11:9.
- National Labor Relations Board lacks quorum of members to decide cases or reverse prior decisions in cases for most of 2025. § 2:15.

Executive Orders

- President Trump signed Executive Order No. 14410 on June 3, 2026, which reclassifies an estimated, almost 8,000 senior federal employees to "Schedule Policy/Career" civil service classification, which makes those employees more accountable but also eliminates many of the civil service protections from termination of employment. § 11:11.
- President Trump signed Executive Order 14202, dated February 6, 2025, ("Eradicating Anti-Christian Bias") to combat the "anti-Christian weaponization of government". § 17:14.