

BIRMINGHAM BAR ASSOCIATION

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# BULLETIN

## **Justice for Four Little Girls:**

**The Bombing of the  
16th Street Baptist Church Cases | pg 16**

**Limited Liability of  
Road-Construction Contractors | pg 12**

## Miscellaneous Changes

The ACA amended the Fair Labor Standards Act (“FLSA”) to require certain large employers to automatically enroll new full-time employees in one of the employer’s health benefit plans. In addition, those large employers must continue the enrollment of current employees. The automatic enrollment requirement applies to employers that (1) are subject to the FLSA, (2) have more than 200 full-time employees, and (3) have one or more health benefit plans. Employers must provide “adequate notice” to employees, and employees must be given an opportunity to opt out of coverage. While the ACA does not specify an effective date for the automatic enrollment requirement, the

DOL has indicated that employers are not required to comply with this requirement until final regulations are issued. Such regulations are not expected to be promulgated in time to implement the automatic enrollment provisions by 2014.

The ACA also amended the FLSA to include retaliation protections for employees regarding some of the health care reform requirements. Generally, employers are prohibited from discharging or discriminating against an employee with respect to the employee’s compensation, terms, conditions, or other privileges of employment because the employee (among other things): received a premium tax credit or a cost-sharing reduction or provided (or is about to provide) information to the employer, federal government, or any state attorney general relating to a violation or an act or omission of Title I of ACA. It is important for employers to know that these protections extend to all employees, as well as job applicants and former employees.

Again, the delay of the employer mandate and certain reporting requirements does not mean that there is nothing to do. As you can see, there are still plenty of changes mandated by the ACA that are still on schedule. Employers should take advantage of the delay and continue preparing for the implementation of the ACA while keeping a watchful eye on the mounds of guidance being issued. ☞

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