





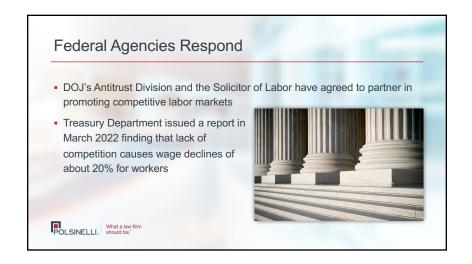
Government Investigations regarding Anti-Trust and Restrictive Covenant Agreements and Penalty Provisions

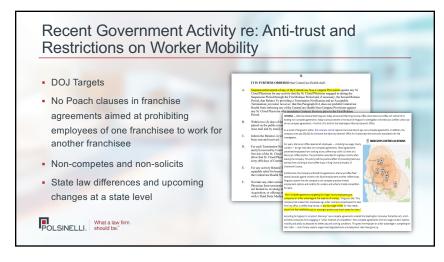
# Biden Executive Order re Non-Competes

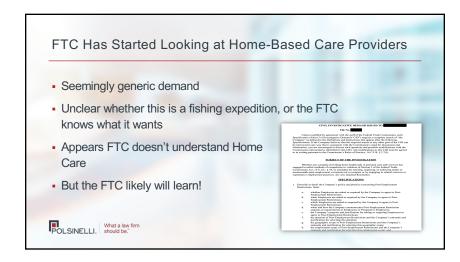


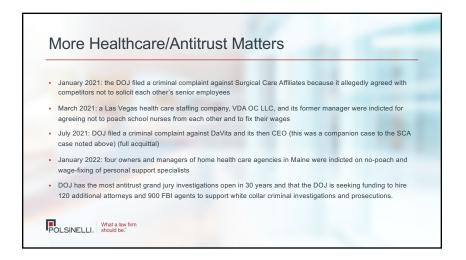
- Issued on July 9, 2021
- "Powerful companies require workers to sign non-compete agreements that restrict their ability to change jobs."
- "To address agreements that may unduly limit workers' ability to change jobs, the Chair of the
  FTC is encouraged to consider working with the rest of the Commission to exercise the FTC's
  statutory rulemaking authority under the Federal Trade Commission Act to curtail the unfair use
  of non-compete clauses and other clauses or agreements that may unfairly limit worker
  mobility."
- The Executive Order does not change the law of restrictive covenants









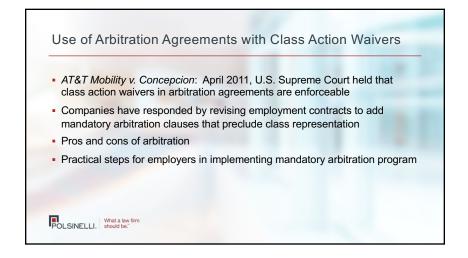


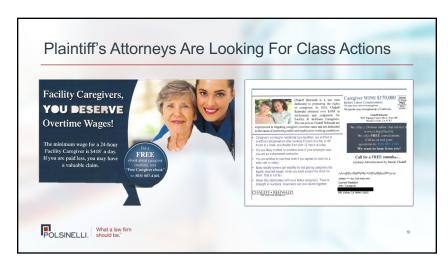




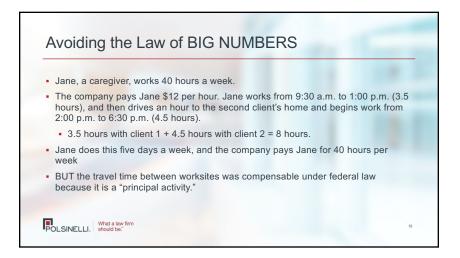




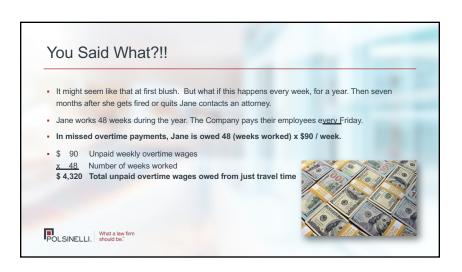


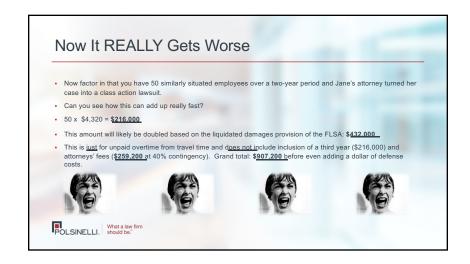






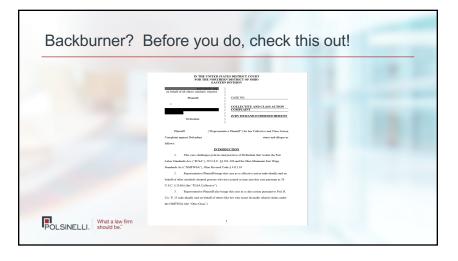
# Avoiding the Law of BIG NUMBERS Because the company has not paid Jane for the 60 minutes she drove from worksite to worksite each day, the company owes Jane for this time for 5 days per work each week. S workdays x 1 hour between shifts = 5 hours. This carries Jane's working hours per week to 45 S overtime hours x (1.5 x 12) = \$90 / week. Thus, Jane is owed \$90 per week in unpaid overtime wages. So what? That's not bad.

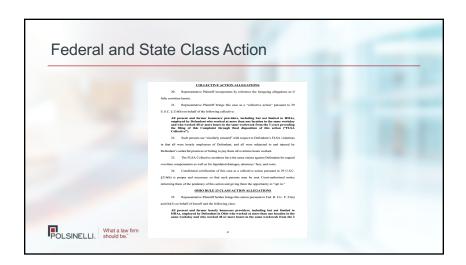


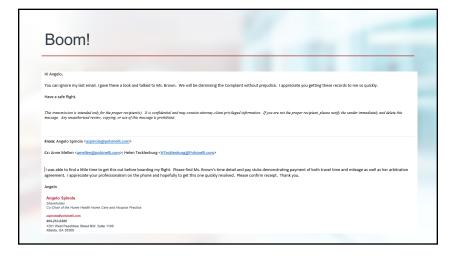








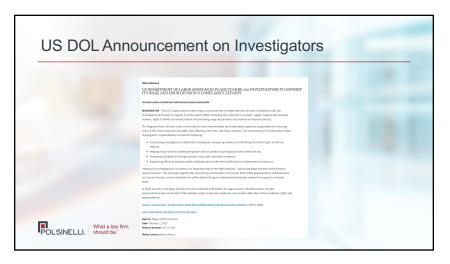




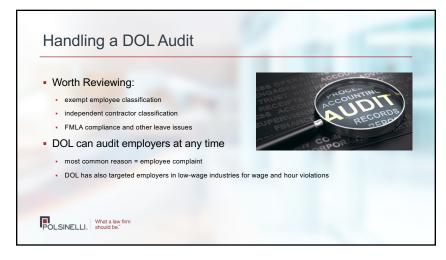












### What to Expect

- The DOL typically provides little advance notice of an audit.
  - you can request time to gather records.
- Contact the auditor to find out specific information about the audit.
- Key questions to ask are the focus of the investigation (e.g., overtime pay compliance, exempt vs. nonexempt classification, minimum wage compliance), the time period for records the auditor wants to review, and the names of any employees that may be interviewed.
- Gather the records in accordance with guidance provided by the auditor.
  - Be prepared to provide documentation related to the company compensation policies and procedures. Keep track of exactly what information was provided. Do not provide records other than what the auditor requests.

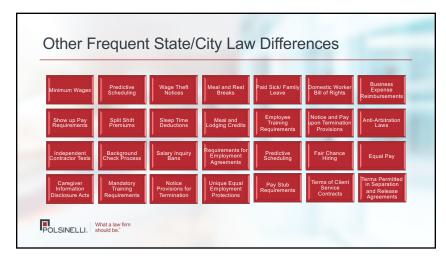


## What to Expect Cont.

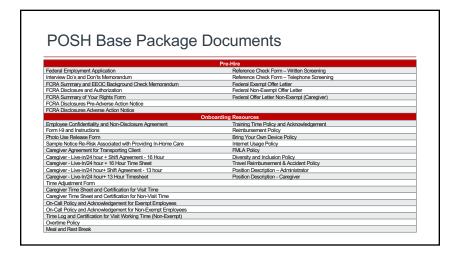
- Designate one or two company representatives to work with the auditor.
  - Some employers choose to designate their company's legal counsel; other employers will designate senior managers. The representatives will have the duty to provide documents requested, arrange for any additional records to be provided to the auditor (if necessary) and coordinate employee interviews.
- During the audit, be courteous to and cooperative with the auditor.
  - It is a good practice to provide a quiet area for the auditor to work in.
- At the end of the audit, ask the auditor to provide a summary of the results of the investigation.
  - · This information will help an employer review options for resolutions if any violations are found. If violations are found, employers are encouraged to consult legal counsel before any settlements are reached with the DOL

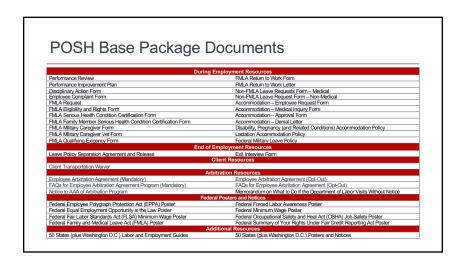


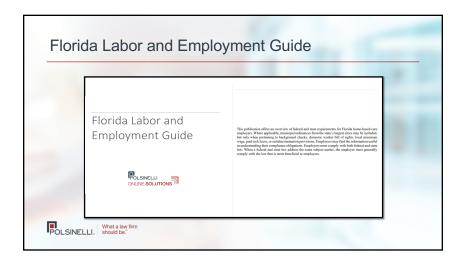


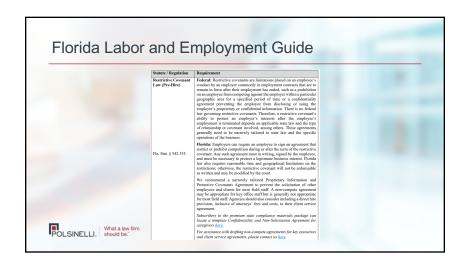


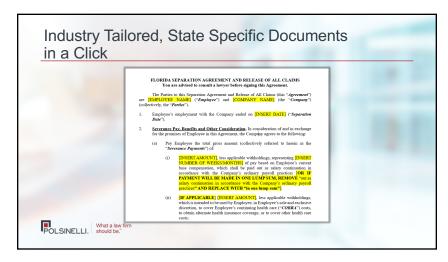


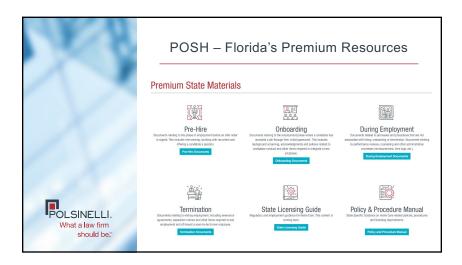


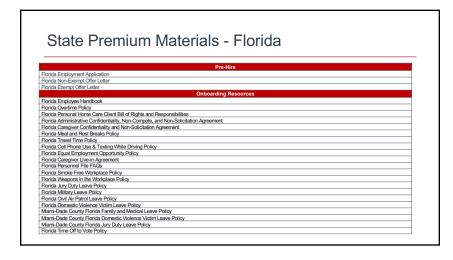


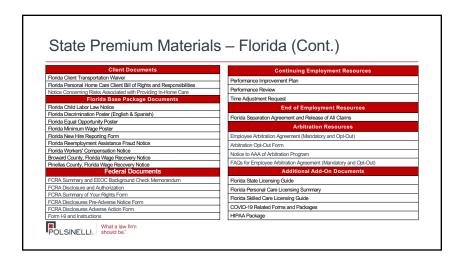


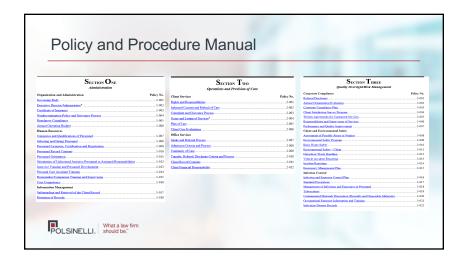


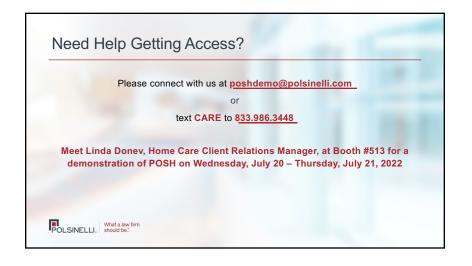




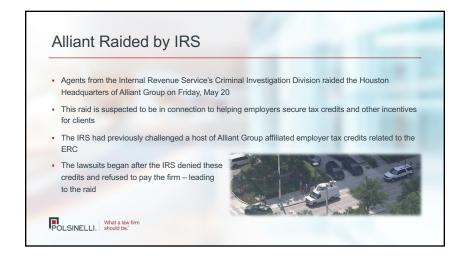


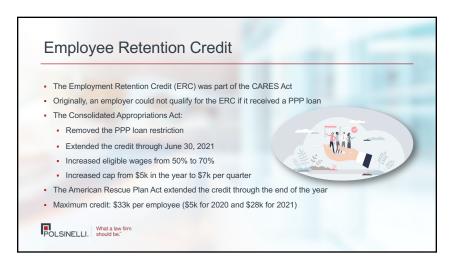


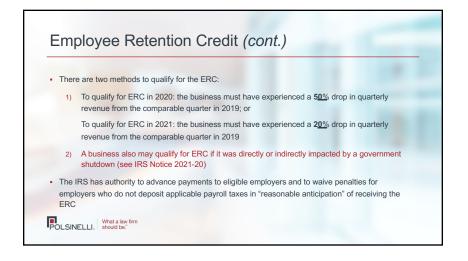


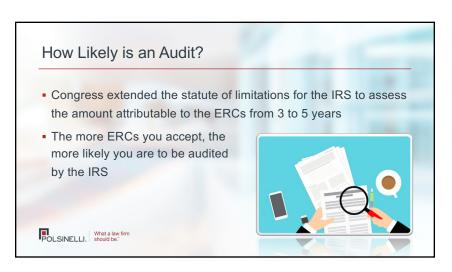






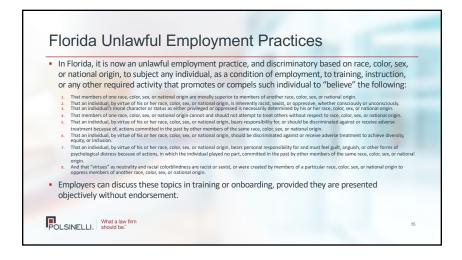


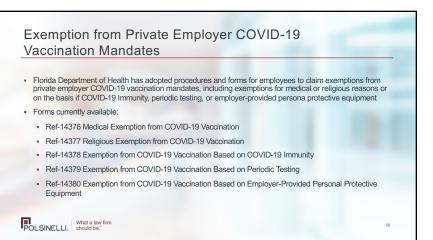


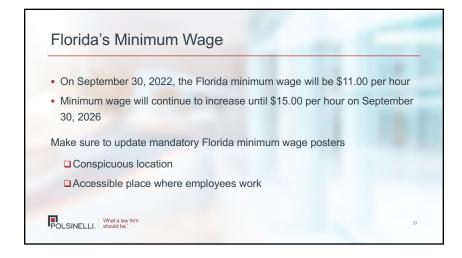


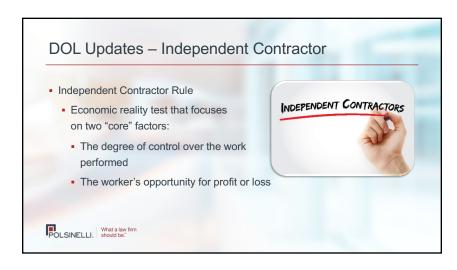












# Recent Florida federal court decision found a home care registry and its owners liable for failing to pay overtime to home care employees misclassified as independent contractors The court found that the individuals were misclassified because: Registry required caregivers to comply with policies, be on-call for emergencies, provide notification regarding medication changes, obtain approval for actions on behalf of consumer Registry required caregiver to call in to report hours worked and submit reports and logs, and call to report time off Registry facilitated pairing process for caregivers and consumers, determining which caregivers were a good match for client Registry pay based on reimbursement rates – no opportunity to negotiate Registry provided training required by State Court imposed individual liability for liquidated damages – significance of prior DOL investigation and good example of the impact of agreements with the DOL





