SUPREME COURT SCHEDULED TO HEAR VARIETY OF LABOR AND EMPLOYMENT CASES

The Supreme Court officially opened its 2009-2010 term October 5 with five labor and employment law cases awaiting oral argument involving an alleged whistleblower, pension benefits, race discrimination, and two cases dealing with labor arbitration. In addition, three other cases before the Court deal with issues of interest to labor and employment law practitioners even though they do not involve employment claims. The three cases involve attorneys’ fees, class arbitration, and campaign finance.

This term’s docket includes an unusually high proportion of labor and arbitration cases. One case was brought under the Railway Labor Act, a statute that the court has not interpreted in 15 years. In Union Pac. R.R. Co. v. Bhd. of Locomotive Engrs., U.S. No. 08-604, the Court will rule on whether an appeals court had the authority to overturn on Fifth Amendment due process grounds, an arbitration panel’s dismissal of grievances challenging discipline imposed on five locomotive engineers. A case filed under the Labor-Management Relations Act also raises an arbitration question (Granite Rock Co. v. Int. Bhd. of Teamsters, U.S., No. 08-1214). The third arbitration case involves anti-trust claims but raises an issue that comes up in employment arbitration—whether claims can be arbitrated on a classwide basis (Stolt-Nielsen SA v. Animal Feeds Int. Corp., U.S., No. 08-1198).

The sole employment discrimination case involves a timing question for bringing race discrimination disparate impact claims under Title VII of the 1964 Civil Rights Act challenging a test for firefighter applicants that was the basis for successive rounds of hiring over several years (Lewis v. Chicago, U.S. No. 08-974).

An nonemployment civil rights case also before the Court raises the question whether a reasonable attorneys’ fees award under a fee-shifting provision may include an enhancement for superior representation and exceptional results (Perdue v. Kenny A., U.S., No. 08-970).

The justices also agree to hear a dispute over attorney-client privilege that arose in a case brought by a former supervisor who alleges he was fired because he refused to recant his statement that his employer employed illegal workers (Mohawk Indus. Inc. v. Carpenter, U.S., No. 08-678).

The only employee benefits case on the Supreme Court docket, brought under the Employee Retirement Income Security Act, involves the calculation of pension benefits for employees who left, took a lump-sum distribution, and later were rehired (Conkright v. Frommert, U.S. No. 08-810).

A major campaign finance case potentially could lift restrictions on contributions by corporations and unions in federal election campaigns (Citizens United v. FEC, U.S., No. 08-205).

The justices are expected to issue decisions in all cases by the end of June 2010.

(Source: BNA, Daily Labor Report, No. 189, October 2, 2009, pp. AA1-AA5.)