

Legal Update Article

First Circuit Affirms Decision to Strike Down Amendments to Puerto Rico 2017 Employment Law Reform

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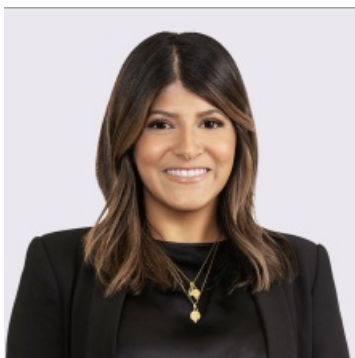


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The U.S. Court of Appeals for the First Circuit has affirmed a federal district court's decision that declared null and void *ab initio* Puerto Rico Act 41-2022. Financial Oversight Board v. Hernandez Montañez et al., No. 23-1267 (1st Cir. Aug. 10, 2023).

[Puerto Rico Act 41-2022](#), enacted in the summer of 2022, had reversed in part the 2017 Puerto Rico Employment Law Reform.

The First Circuit's decision is the latest chapter in a legal saga that goes back more than a year. In June 2022, Puerto Rico Governor Pedro Pierluisi signed Act 41-2022, which introduced changes to the rules governing statutory probationary periods, vacation and sick leave accrual, and the way the annual Christmas Bonus is accumulated, among others. However, the Financial Oversight and Management Board for Puerto Rico (the entity created by Congress to supervise the finances of the Government of Puerto Rico) [commenced litigation](#) against the Government in September 2022, seeking to nullify Act 41-2022 because it violated the PROMESA Act. On March 3, 2023, the federal court overseeing the Puerto Rico bankruptcy-like procedures ruled Act 41-2022 violated federal law and, as such, [declared](#) it null and void *ab initio*. The court went as far as to permanently enjoin the Governor and any other individuals from taking any steps to help private parties enforce Act 41-2022.

However, the Puerto Rico Government appealed the decision to the First Circuit, arguing the Oversight Board's powers under the PROMESA Act do not extend to the revision of laws impacting the private sector. The Government also argued that, since the bankruptcy-like procedures for Puerto Rico's central government had concluded in early 2022, the Oversight Board's authority to review newly enacted laws was therefore lessened. The First Circuit rejected both arguments and affirmed in whole the lower court's decision to nullify Act 41-2022.

With this decision, Puerto Rico employment laws continue to be governed by the 2017 Employment Law Reform. Furthermore, employers who decided to implement the provisions of the defunct Act 41-2022 now have clearer guidance if they decide to revert to the provisions of the 2017 Employment Law Reform. Employers should ensure their internal policies or manuals comply with the current state of the laws. Further, employers should revise the language of employment contracts to consider the reintroduced probationary period minimums.

Jackson Lewis attorneys are closely monitoring updates and changes to legal requirements and guidance and are available to help employers weed through the complexities.

If you have questions or need assistance, please reach out to the Jackson Lewis attorney with whom you regularly work.

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