Employment Law Update – February 2019: New Jersey Has Officially Barred Confidentiality of Settlements of Discrimination, Retaliation, and Harassment Claims

On March 18, 2019, New Jersey amended the New Jersey Law Against Discrimination ("LAD") to prohibit, as against public policy, any provision in any employment contract that waives any substantive or procedural right or remedy relating to a claim of discrimination, retaliation, or harassment. In addition, the LAD now prohibits any provision in any employment contract or settlement agreement that has the purpose or effect of concealing the details of any claim relating to discrimination, retaliation, or harassment. The amendment further provides that any person who attempts to enforce such a non-disclosure provision shall be liable for the employee's reasonable attorneys' fees and costs as well as any available tort remedies. Employers are now also prohibited from retaliating against employees (prospective, current, or former) who refuse to enter into an agreement that contains this type of non-disclosure provision. The amendment takes effect immediately (March 18, 2019) and applies to all contracts and agreements entered into, renewed, modified, or amended on or after the effective date of the amendment.