



## Employment Practices Liability Product

### FLSA Claim Examples

The U.S. Department of Labor (DOL) estimates that as many as 70 percent of employers are not in compliance with the Fair Labor Standards Act in some material way.

- ▶ A mortgage company was sued by 54 of its loan officers for over \$220,000 in unpaid overtime. The owner was under the impression that FLSA did not apply to highly compensated employees. Many of his staff members earned well over \$150,000 per year with the average compensation being \$105,000. There is an exception to the FLSA law for highly compensated individuals earning \$100,000 per year or more but the exception also stipulates that a minimum of \$455 per week must be paid. These employees were not paid during weeks where they did not close loans.
- ▶ Forty-seven client technical support employees took legal action against a local community bank shortly after the bank reclassified these employees as non-exempt. The bank offered each employee two years of back pay for the unpaid overtime. The employees were unhappy with this decision and, in turn, sued and were granted three years of back overtime pay and liquidated damages for the intentional misclassification. The total payout was over \$172,000.
- ▶ An insurance agency settled for \$80,000 with a non-exempt Customer Service Representative for unpaid overtime. The CSR was paid \$20/hour by the agency and never complained about her workload. Frequently, she was asked to come in early for conference calls and to stay late at the end of the month to ensure that all policies were billed prior to month end close. Without having knowledge of any wrongdoing, the owner was served with an FLSA lawsuit from the CSR who had been quietly tracking her hours worked. The agency had no way of knowing whether her calculations were accurate and was advised by counsel to immediately settle for the requested amount.
- ▶ A grocery store was directed to pay over \$52,000 in restitution to 13 employees all under the age of 16 for willful violations of the Fair Labor Standards Acts (FLSA) youth employment provisions. The market had minors working six consecutive hour shifts as well as performing such tasks as cleaning a meat slicer, loading a paper baler and operating the power driven baking machine. The FLSA's youth employment provisions identify hazardous orders that prohibit these specific activities for workers under 18 and limits the number of hours that minors can work on school days/weeks.
- ▶ A laser machining plant was sued for unpaid overtime after firing an employee for what the company described as tardiness and an uncooperative attitude. The administrative assistant was listed as exempt although many of her job responsibilities are considered to be traits of a non-exempt classification. Her lawyer argued that she could not have been an exempt employee since she was docked pay for every hour that she did not work that was less than 38 in a week. The lawsuit settled for \$73,000 in liquidated damages for intentional misclassification.

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