

When Two Worlds Collide with the Current Economy

or...

Guess Who's Coming to Visit?

FLSA Compliance Update

January 2010

FLSA Compliance

Objectives

- **Heads-Up:**
 - **FLSA Enforcement Activity**
 - **Time and Labor Implementation**
- **Considerations for the Future**

Who and/or What Are They?

■ Fair Labor Standards Act

- Social legislation aimed at increasing the number of people on employers' payrolls. It is designed to benefit workers.

■ Department of Labor

- Responsible for administering a variety of labor laws, including the Fair Labor Standards Act.

■ Wage & Hour Division

- Division of the Department of Labor responsible for enforcing comprehensive federal labor law that includes minimum wage, overtime pay, recordkeeping, youth employment, family and medical leave, migrant workers, lie detector tests, and others.

Headline: Strategic HR Lawyer

Strategic Human Resource Management Law

August 27, 2009



**Even the Smallest
Employers Can Be the
Target of Wage & Hour
Investigations by Federal
Agencies**

Headline: Strategic HR Lawyer

Strategic Human Resource Management Law

September 16, 2009

USDOL Beefs Up Enforcement



- **There will be 150 investigators added** in the Wage and Hour Division to enforce wage rules and child-labor laws.
- **100 staff will be added** to ensure contractors on stimulus projects are in compliance with applicable laws, increasing the division's staff by more than one-third.
- The Employee Benefits Security Administration **is adding 75 staffers** to conduct nearly 600 more criminal and civil investigations.
- The Occupational Safety and Health Administration recently **formed a task force** to design an enforcement program for severe violators.

Headline: HR Week - SHRM

November 9, 2009



Pay Particular Attention to FLSA When Switching Timekeeping Systems

Headline: Compensation Ezone

Business & Legal Reports

December 1, 2009

Wage & Hour Enforcement Beefed Up

- The Department Of Labor's Wage and Hour Division has increased its enforcement and outreach efforts, says U.S. Secretary of Labor Hilda L. Solis.
- Solis says the division has hired 250 new investigators, increasing its staff by more than 33 percent.
- *In addition to beefing up its enforcement, the department will launch an outreach campaign aimed at informing workers about their rights.* (emphasis added)



Headline: BLS Economic News Release

Friday, December 4, 2009



THE (UN)- EMPLOYMENT SITUATION

NOVEMBER 2009

- The unemployment rate *edged down to 10.0 percent* in November...the U.S. Bureau of Labor Statistics reported today.” (emphasis added)
- In the prior 3 months, *payroll job losses had averaged 135,000 a month*. In November, employment fell in construction, manufacturing, and information, while temporary help services and health care added jobs.

Business & Legal Resources

December 7, 2009



DOL, EEOC, and Your Employees' Attorneys Are Reading This Report

A recently released report concludes that a stunning percentage of workers in this country are underpaid and otherwise mistreated at work.

Overtime Violations: Of the respondents who worked more than 40 hours during the previous week (about 25 percent of respondents), 76 percent were not paid the legally required overtime rate by their employers.

What is Time and Labor?

- **What is T&L?**
 - Peoplesoft Time & Labor provides a comprehensive and automated solution for capturing (*reporting*) employee hours worked and absences.

- **Why are we using it?**
 - Payroll receives a higher level of accuracy and dependability.



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Worksheet

Armstrong, Nicholas

EmplID: 00000000

Title: COOR, SPCL EVENTS

Empl Rcd Nbr: 0

[Click for Instructions](#)

View By:

Date:

[<< Previous Time Period](#)

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Reported Hours: 0.000 Hours

Scheduled Hours: 80.000 Hours [Show all Punch Types](#)

Print Worksheet for 05/31/2009 to 06/13/2009

Print Worksheet

	Day	Date	Status	In	Lunch	In	Out	Punch Total	Time Reporting Code	Type
<input type="button" value="-"/>		Sun	5/31	New	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="button" value="v"/>
<input type="button" value="-"/>		Mon	6/1	New	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="button" value="v"/>
<input type="button" value="-"/>		Tue	6/2	New	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="button" value="v"/>
<input type="button" value="-"/>		Wed	6/3	New	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="button" value="v"/>
<input type="button" value="-"/>		Thu	6/4	New	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="button" value="v"/>
<input type="button" value="-"/>		Fri	6/5	New	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="button" value="v"/>
<input type="button" value="-"/>		Sat	6/6	New	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="button" value="v"/>
<input type="button" value="-"/>		Sun	6/7	New	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="button" value="v"/>
<input type="button" value="-"/>		Mon	6/8	New	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="button" value="v"/>
<input type="button" value="-"/>		Tue	6/9	New	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="button" value="v"/>

T & L: Rounding and Overtime



- **While rounding is permissible in FLSA, the rounding rules in T&L may result in overtime liability**
 - **Recommendation: Time Approvers check biweekly employee timesheets every Thursday to allow:**
 - **time to resolve inadvertent overtime hours** resulting from rounding
 - **time to remind the employee to save and submit** hours worked before the pay period ends
 - **time to review and discuss any questions** concerning reported time before the pay period ends

T & L: Reporting Hours Worked

- **Reported vs. Scheduled Hours (8-12; 1-5)**

- While it may happen occasionally, human nature isn't exact about reporting to and leaving work at the same time every day



But, oh, it is so easy/simple/practical to use the same numbers for each day's entry...



W & H Investigations

■ Complaints

- **If Wage and Hour determines the complaint warrants investigation:**
 - **The investigator will request** to see employee time records. Time records showing consistent 8-12; 1-5 punches will raise red flags immediately
 - **The investigator will probably ask** to look at computer login times. If your employee comes in to work early and surfs the net, **the employer must prove** the employee was not performing work between the login time and the reported time that work actually started.

Wage & Hour: Recent Case Lost (MO)

■ Recent Case in Missouri

- a police officer arrived at work early to read the paper before his shift and logged in to his computer upon arrival
- he became disgruntled over another issue, filed a complaint under FLSA, and claimed all time was worked but not paid
- the employer could not demonstrate that the employee was *not* working all time and the time sheet “In” was later than the computer login time. (employee’s word against employer’s word)
- Result: Employer required to pay back pay of about \$13,000

QUESTIONS

