

HR SPECIALIST – **To Pay or Not to Pay; Solving Your Complex FLSA Issues**

“We will not rest until the (FLSA) is followed by every employer, and each worker is treated and compensated fairly.”

— U.S. Labor Secretary Hilda Solis announcing a 33% increase in wage-and-hour investigators last month

Last month’s news that AT&T is facing a \$1 billion (with a B!) class-action lawsuit over wage-and-hour mistakes put a jolt into U.S. employers of all sizes. That came on the heels of word that the U.S. Department of Labor dramatically beefed up its enforcement division. If this doesn’t scare you, it should.

A BusinessWeek report says Fair Labor Standards Act (FLSA) lawsuits have “exploded nationwide,” and that “because wage-and-hour laws have been so widely violated, undetonated land mines remain buried in countless companies.”

Which pay-related mistakes are you or even your staffing agency making?

- Employees wrongly classified as exempt from overtime?
- Hourly employees paid incorrectly (or not at all) for their travel time?
- Failing to retain payroll records for the right amount of time (3 years, right?)?
- You closed the shop when the blizzard hit – do you have to pay the staff?
- Violating – or being unaware of – the “rounding law”?

All it takes is one employee (internal or temporary) filing one complaint to get the class-action snowball rolling downhill. Wal-Mart paid \$640 million; IBM coughed up \$65 million; Siebel forked over \$27 million. Amazon is facing a huge lawsuit for allegedly violating the rounding law.

U.S. Labor Secretary Hilda Solis has promised to “refocus the agency on its enforcement responsibilities.” The proof: She added 250 new field investigators—a 33% staff increase—to look into noncompliance of wage-and-hour issues. And cash-strapped states are tightening the wage-enforcement screws as a means of revenue creation.

Your executives expect their HR people and staffing vendor to know these old (but technical) wage-and-hour rules ... and they don’t like surprises.

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