

government relations

EMPLOYERS BE ON ALERT – THE DOL STEPS UP ENFORCEMENT EFFORTS

Have you recently considered whether your minimum wage and overtime policies comply with state and federal labor laws including the Fair Labor Standards Act (“FLSA”)? If your answer to this question is no, you may be subjecting yourself to an investigation by the Department of Labor (“DOL”) and liability for unpaid wages to workers.

The new Secretary of Labor, Hilda Solis, announced recently that the DOL was hiring an additional 250 investigators to strengthen its enforcement of federal minimum wage and overtime laws. The announcement came on the heels of two reports issued by the General Accounting Office (“GAO”) to Congress. The GAO reports were very critical of the enforcement activities of the DOL’s Wage and Hour Division during the Bush administration. Among other things, the GAO reports found slow response times to wage and hour complaints, failed conciliation efforts, and delayed and inadequate investigations.

In addition, there has also been a recent rash of lawsuits brought by private parties against employers for violations of the overtime provisions of the FLSA. The FLSA requires employers to pay non-exempt employees one and one-half times their regular rates of pay for all hours worked in excess of forty (40) per week.

The DOL announcement and the increase in private wage and hour litigation provide a stern warning to employers that they

can be subject to costly investigations, penalties and litigation to defend their pay practices. It is recommended that employers take the following steps:

1. Review overtime pay policies.
2. Review the manner in which you track and document time worked by your employees.
3. Review all positions that have historically been considered exempt to ensure that a recognized exemption to the FLSA actually applies.
4. Consult labor and employment counsel if questions arise concerning your compliance with wage and hour laws.

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