

## New Year's Resolution for Proactive Employers: Implement changes after year-end wage and hour audit

---

December 2, 2009

In March 2009, new U.S. Secretary of Labor Hilda L. Solis announced that the "department's Wage and Hour Division has already begun the process of adding 150 new investigators to its field offices to refocus the agency on these enforcement responsibilities."

Based on the news releases coming out of Washington, D.C., the DOL is following through on this promise across the country, including Michigan.

In September, the DOL announced it secured nearly \$40,000 in back wages for employees who were not paid for their last week of wages after their Michigan employer closed its doors. In October, the DOL made headlines by assessing over \$36,000 in fines against a west-Michigan farmer for child labor violations. Last week, the DOL trumpeted an over \$2 million judgment in federal court for overtime violations by a local restaurant chain.

### What does this mean for employers?

Now is the time to ensure compliance with the Fair Labor Standards Act. Attorneys across the country are noticing an increase in wage and hour claims by terminated employees that their employers have required them to work "off-the-clock," were forced to work from home or during their off-hours, or were misclassified as an exempt employee altogether. Employers are also facing claims from current employees who have been asked to reduce their pay and hours worked.

As employers are looking to trim costs without losing valued employees, many also turn to reduced workweeks to coincide with reduced pay. Without proper planning, however, employers implementing "furloughs" can unwittingly open the door to wage claims by exempt employees arguing they no longer are being paid on a salary basis as required by the regulations.

### What can a proactive employer do?

1. Review the company's pay practices to ensure that they prohibit unauthorized deductions.
2. Conduct an audit of the current classification of all employees to determine whether recent restructuring or employee reductions have modified salary or job duties, thus resulting in the misclassification of employees.
3. Remind all employees, especially managers and supervisors, of the importance of proper record keeping and FLSA compliance.

For more information, contact:

Megan P. Norris  
313.496.7594  
norris@millercanfield.com