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Employment Law Bulletin

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Update on Minimum Salary Requirements for Employees Not Eligible for Overtime

As reported in our December 2016 Bulletin, a federal court stopped implementation of the US Department of Labor's increase in the minimum salary paid to exempt employees before it was to take effect on December 1, 2016. The dispute over the federal rule is winding its way through the courts with the DOL's briefing due in early March. A hearing date has not been set, so the reprieve continues. (Exempt employees are those employees who, among other things, are not eligible for overtime).

In the meantime, California employers must continue to comply with state law which requires that exempt employees be paid a salary equal to two times California's minimum wage for a full-time employee. Things got trickier however, starting January 2017 when California adopted two minimum wage rates: \$10 for employers with less than 25 employees and \$10.50 for employers with 25 or more employees. Two minimum wage rates means there are now two potential exempt employee salary minimums in play - \$41,600 or \$43,680 – depending on the size of the employer.

If you regularly employ less than 25 employees, you can continue to pay \$10/hour wage to nonexempt (overtime eligible) employees and a \$41,600/year minimum salary to exempt employees this year. Just remember, if you have 20-24 employees, pay careful attention as you creep closer to the "magic 25" so you can increase the hourly wage to \$10.50 and minimum salary to \$43,680 when required. If your workforce fluctuates above and below 25 employees throughout the year, we recommend you pay the higher \$10.50/hour wage and \$43,680/year salary throughout the year to avoid inadvertent violations.

We'll continue watching for developments in the legal battle about the federal minimum salary and issue a bulletin when a decision is made. In the meantime, make sure you are in compliance with California's new minimum wage and exempt employee salary requirements. It's also a great time to make sure you have properly classified your employees as exempt (not overtime eligible); this is a major potential area of liability for clients, and proactive action can help eliminate or greatly minimize this risk. If you have questions about this complex topic, please don't hesitate to give us a call.

Employers Don't Have a Duty to Accommodate Employees to Care for Their Disabled Family Members, but There's a Catch...

If you attended our 2017 Employment Law Update, you may remember the case of *Castro-Ramirez v. Dependable Highway Express, Inc.*, which involved a father who asked his employer for a schedule accommodation so he could care for his young son who needed daily dialysis. The Court of Appeal originally ruled the employer had a duty to accommodate the employee, but in an unusual turn of events, the court subsequently changed its ruling stating that California employers do not have a duty to reasonably accommodate an employee who needs to care for a disabled individual. While this ruling helped the employer in the *Castro-Ramirez* case, the Court pointed out that even though a duty to accommodate does not exist, an employee may sue the employer for discrimination based on the employee's association with a disabled individual. The takeaway? When an employee requests time off or a change to their work schedule to care for a person with a disability, proceed with caution, use the interactive process, and grant reasonable requests.

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