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Overtime Changes Require Action By Employers Before December 1

SARASOTA, Fla. — Board Certified Labor and Employment law attorney **Jason Collier** from the full-service law firm Shumaker, Loop & Kendrick, LLP recommends employers act now to ensure compliance with the upcoming changes to the Fair Labor Standards Act (FLSA).

Employers must pay employees covered by the FLSA time-and-one-half their regular rate of pay for all hours worked in excess of 40 in a given workweek, unless the employee meets a specific exemption.

The current FLSA regulations provide white collar exemptions for employees who are paid on a salary basis of at least \$455 per week (\$23,660 annually) and who primarily perform executive, administrative or professional duties as defined by the FLSA. The new regulations, which go into effect Dec. 1, more than double the minimum salary level for employees to meet these exemptions to \$47,476 annually. As a result, many more employees will become eligible for overtime pay.

“These changes are going to affect virtually all employers,” Collier said. “Any employer with an employee earning between \$23,660 and \$47,476 annually, who was previously relying on the executive, administrative or professional exemptions to avoid paying overtime, will be affected by this change.”

The industries expected to be most affected include retail, restaurant, nonprofit, health care and tourism – some of the biggest job sectors in Florida.

“Now is the time for employers to act,” Collier said. “Employers have only about a month remaining to make any necessary changes. It’s important to make sure employers audit their workforce and understand which employees are exempt and nonexempt, and if necessary, either increase employee salaries to the new threshold or convert employees to non-exempt.”

Many employers have been analyzing their workforces for months in preparation for these changes, Collier said. After President Obama directed the Department of Labor to update the overtime regulations in 2014, the department released the final rules in May 2016.

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“Employers with questions about how the FLSA changes will impact their businesses should contact legal counsel to discuss options and alternatives and to ensure they are in compliance with the new regulations,” Collier said. “Violations of the FLSA can subject employers to serious liability so it is imperative that employers get this right.”

The new regulations include other changes, too, like increasing the minimum compensation level for the Highly Compensated Employee exemption from \$100,000 to \$134,004 annually, an automatic adjustment to update the minimum salary levels every three years and a new rule allowing up to 10 percent of the salary level to be met with nondiscretionary incentive payments.

About Shumaker, Loop & Kendrick, LLP

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