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FLORIDA
EMPLOYMENT LAW LETTER

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WAGE AND HOUR LAW

Overtime changes nixed for now, but here's what to do next

So you've heard about the Texas federal district court's decision stopping the new overtime regulations that were set to go into effect December 1, 2016. You'd spent the previous several weeks or even months gearing up for the change. First, know that everyone is in the same boat. The ruling caught almost everyone by surprise, particularly because it came so close to the deadline. Many employers had already planned for, announced, or even implemented the changes.

While the ruling appears to spare employers from making potentially costly changes, you now have some decisions to make because of the timing of the events. We've put together the following general guidance to help you think through this process. For advice specific to your business, consult with counsel.

What happened?

We'll spare you the boring legal details, but if you're interested, the ruling can be found at www.txed.uscourts.gov/d/26042.

Bottom line: A lawsuit was filed against the U.S. Department of Labor (DOL), the agency that issued the new regulations, asking a Texas federal district court to rule that the regulations were invalid and shouldn't be enforced. Even the most optimistic commentators didn't give the lawsuit much chance for success. But 10 days before the December 1 compliance deadline, the court ruled against the DOL and issued an order prohibiting the new rules from being enforced. So they did *not* go into effect on December 1, and we don't know if or when they will be enforced.

Some readers have asked whether the ruling affects employers in other jurisdictions. Yes, it does. It is a nationwide ruling, so if you are covered by the Fair Labor Standards Act (FLSA), it affects you, no matter where your operations are.

What are your options now?

So what should you do now? Here are a few suggestions:

(1) If you are one of the employers that had not implemented or announced the changes to your workforce, you don't need to do anything. Just carry on with the same pay arrangements as before.

(2) If you had only announced the changes but not actually made them, then you are free not to implement them. As soon as possible, tell affected workers that promised raises or changes won't be carried out at this time based on the court's ruling.

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(3) If you had already made changes based on the new rules, your first question should be whether employees have already done any work under the new pay arrangements. You should pay for any work that has already been done under a new wage arrangement as promised. You should not retroactively change a pay arrangement for work that has already been done.

(4) For work that hasn't yet been done, you can change things back to the way they were. So if you wish, you can announce that for the *next* payroll cycle, wages will go back to the previous arrangements and that further changes are suspended based on the court's ruling.

Steps 1 through 4 assume you made changes based strictly on the new salary requirement (e.g., raising the salaries of exempt employees above the new threshold or reclassifying workers as nonexempt and paying overtime). The rules that required you to make those changes did *not* go into effect on December 1. Therefore, you are within your rights to not make or to revoke the changes for work not yet performed.

Many employers, however, asked their counsel for exempt classification reviews leading up to the deadline. As a result, some companies decided that positions needed to be reclassified based on their duties, regardless of pay. Any reclassification decisions you've made based in whole or in part on the job duties not being exempt (or being questionably exempt) probably shouldn't be reversed. The duties rules weren't part of the changes and remain the same after December 1.

Even though they don't have to, some employers are electing to keep the changes in place based on (1) the uncertainty of the law and not wanting to go through this process again if the rules are reinstated or (2) the impact on employee morale of taking away previously awarded or announced raises and overtime eligibility. You certainly have the right to keep previously announced changes in place if you wish. You just need to balance the cost of the changes to your business versus the possible negative impact of reversing them.

One option is to keep the changes permanently (regardless of how the law turns out) and freeze or reduce raises for the next couple of years to help offset the cost impact. Or you could keep the changes in place for now and let employees know that the changes are subject to revision based on definitive guidance from applicable authorities.

What happens next?

Everyone wants to know what is going to happen next. Are the changes *ever* going to be enacted, and if so, when? There is a lot of speculation out there, but the answer is that no one knows for certain right now.

Again, the reason the changes didn't take effect December 1 is that the DOL lost in district court. The only way to change the ruling would be for the losing party—the DOL—to appeal the court's decision to a federal court of appeals and win the appeal.

And, in fact, the DOL has appealed the ruling. Since appeals can take months, the agency asked for an accelerated briefing schedule, which was granted by the U.S. 5th Circuit Court of Appeals. However, even under the "hurry up" appeal schedule, the final brief and oral argument deadlines will fall after Inauguration Day. That means there will be new leadership at the DOL who probably will have little interest in pursuing the appeal.

In fact, before the Texas court's decision came into play, there was already much speculation that the Trump administration and/or the Republican Congress would take steps to repeal or amend the rules in 2017.

So no one knows what will happen next, but based on the timing of the ruling and the election results, it's quite possible the new regulations will *never* go into effect. But they *might.* Stay vigilant, and for now, be prepared to implement your compliance plan quickly just in case.

Bottom line

You didn't have to make changes to comply with the new overtime rules by December 1—and you don't have to do so until further notice. You can revert to your old pay arrangements for work not already performed but not for work that has been completed. Let affected employees know what you will do as soon as possible, and check state law for any notice requirements before changing pay arrangements that have already been implemented. Alternatively, you can leave the changes in place if you prefer—either temporarily or permanently. Finally, be sure to keep watching to see what happens next. ✤

LEGISLATION

Florida medical marijuana amendment leaves employers high and dry

by Lisa Berg
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Alhadeff & Sitterson, P.A.

On November 8, 2016, voters overwhelmingly approved the Florida Medical Marijuana Legislative Initiative, also known as Amendment 2, which amended Florida's constitution to allow the medical use of marijuana for individuals with certain debilitating medical conditions as determined by a licensed Florida physician. The amendment also requires the Florida Department of Health (DOH) to register and regulate marijuana production and distribution centers. Unfortunately, Amendment 2 left many unanswered questions for employers. This article attempts to clear away some of the smoke and addresses some commonly asked questions concerning medical marijuana use. It also explains what legal issues are not covered by the amendment.

What we know

Doesn't Florida already have a law regarding the medical use of marijuana? Yes, Florida enacted the Compassionate Medical Cannabis Act of 2014, which became effective on January 1, 2015. However, this law only permits qualified patients with seizure disorders and cancer to use low-tetrahydrocannabinol cannabis (a noneuphoric strain of cannabis called "Charlotte's Web") prescribed by a physician. On March 25, 2016, Governor Rick Scott signed HB 307, which expanded the law to allow for terminally ill patients to ingest all forms of medical cannabis. Amendment 2 is much broader than the existing law.

Does Amendment 2 permit recreational use of marijuana? No, it only permits the medical use of marijuana by a qualifying patient (or personal caregiver administering to the patient), as determined by a licensed Florida physician.

Who is legally permitted to use medical marijuana? A "qualifying patient," which is defined as a person who (1) has been diagnosed with a debilitating medical condition, (2) has a physician certification, and (3) has a *valid qualifying patient identification card* (a document issued by the DOH that identifies a qualifying patient or a caregiver).

What qualifies as a debilitating medical condition under Amendment 2? The law specifies: cancer, epilepsy, glaucoma, positive status for human immunodeficiency virus (HIV), acquired immune deficiency syndrome (AIDS), post-traumatic stress disorder (PTSD), amyotrophic lateral sclerosis (ALS), Crohn's disease, Parkinson's disease, multiple sclerosis, or other debilitating medical conditions of the same kind or class as or comparable to those enumerated, and for which a physician believes that the medical use of marijuana would likely outweigh the potential health risks for a patient. The word "comparable" is not defined.

What is a "physician certification"? It's a written document signed by a physician, stating that in the physician's professional opinion, the patient suffers from a debilitating medical condition, that the medical use of marijuana would likely outweigh the potential risks for the patient, and for how long the physician recommends the medical use of marijuana for the patient. A physician certification may only be provided after the physician has conducted a physical examination and a full assessment of the medical history of the patient. A physician's certification issued to a minor must have a parent or legal guardian's written consent.

When could a patient start legally using marijuana? Amendment 2 goes into effect on January 3, 2017. If the DOH doesn't begin issuing identification cards within nine months, then a valid physician certification will serve as a patient's identification card.

How much marijuana could a patient legally possess? The DOH is responsible for issuing regulations defining the amount of marijuana that "could reasonably be presumed to be an adequate supply for qualifying patients' medical use, based on the best available evidence."

Where would patients purchase medical marijuana? Only from medical marijuana treatment centers that are registered by the DOH. Marijuana is not an FDA-approved medicine, so patients will not receive prescriptions for pot.

Can a patient's caregiver possess marijuana? Yes, if the person is at least 21 years old and has qualified for and obtained a caregiver identification card issued by the DOH. Caregivers are prohibited from consuming marijuana obtained for medical use by the qualifying patient. The DOH may limit the number of qualifying patients a caregiver may assist at one time and the number of caregivers that a qualifying patient may have at one time.

Is an employer required to accommodate medical marijuana use in the workplace? No. Amendment 2 does not require accommodation of any *on-site* medical marijuana use. The Amendment states: "Nothing in this section shall require any accommodation of any on-site medical use of marijuana in any correctional institution or detention facility or place of education or employment, or of smoking medical marijuana in any public place." So, employers can prohibit employees from smoking or ingesting marijuana in the workplace. In addition, the amendment does not allow for the "operation of a motor vehicle, boat, or aircraft while under the influence of marijuana."

AGENCY ACTION

EEOC looks into implications of "big data." The use of "big data"—algorithms, "data scraping" of the Internet, and other means of evaluating information on individuals—has the potential to reduce employment discrimination, but it also can worsen bias, Jenny R. Yang, chair of the Equal Employment Opportunity Commission (EEOC), said after a public hearing on the issue in October 2016. A panel of industrial psychologists, attorneys, and labor economists told the EEOC that the use of big data is expected to grow. Yang cautioned that although innovation can reduce discrimination, "it is critical that these tools are designed to promote fairness and opportunity, so that reliance on these expanding sources of data does not create new barriers to opportunity."

Final rule issued for handling retaliation complaints under ACA. The U.S. Occupational Safety and Health Administration (OSHA) in October published a final rule that establishes procedures and time frames for handling whistleblower complaints under the Affordable Care Act (ACA). The ACA protects employees from retaliation for receiving marketplace financial assistance when purchasing health insurance through an exchange. It also protects employees from retaliation for raising concerns regarding conduct they believe violates the consumer protections and health insurance reforms found in Title I of the ACA.

EEOC updates Strategic Enforcement Plan. The EEOC announced in October that it has approved an updated Strategic Enforcement Plan (SEP) for fiscal years 2017-2021. Updates in the new SEP include the addition of two areas related to the emerging issues priority outlined in the previous SEP: (1) issues related to complex employment relationships in the 21st century workplace, focusing specifically on temporary workers, staffing agencies, independent contractor relations, and the on-demand economy, and (2) backlash discrimination against those who are Muslim or Sikh or persons of Arab, Middle Eastern, or South Asian descent as well as persons perceived to be members of these groups.

Agencies study ways to advance diversity in law enforcement. The U.S. Department of Justice (DOJ) and the EEOC have released a report that examines barriers and promising practices—in recruitment, hiring, and retention—for advancing diversity in law enforcement. The report, developed with support from the Center for Policing Equity, aims to provide law enforcement agencies, especially small and midsize agencies, with a resource to enhance the diversity of their workforce by highlighting specific strategies and efforts in place in police departments around the country. ✤

What we don't know

If an employer has a zero-tolerance drug policy, can it terminate an employee who tests positive for medical marijuana use? It is unclear whether employers may terminate or discipline employees who use marijuana off-premises *but arrive at work under the influence of marijuana.* Until further guidance from the Florida Legislature or the courts, employers should consult with experienced legal counsel to address this issue.

Although this is an open question in Florida, employers seeking to enforce their zero-tolerance policies may find some support under federal law. Notably, the Controlled Substances Act (CSA) classifies marijuana as an illegal Schedule 1 drug. Despite the U.S. Department of Justice's (DOJ) decision not to enforce the CSA against medical marijuana users in other states that have legalized its medical use, marijuana still remains illegal under federal law. Consequently, courts in six other states with laws that are comparable to Amendment 2 (i.e., California, Colorado, Montana, New Mexico, Oregon, and Washington) have upheld an employer's right to enforce its drug-free workplace policy because marijuana is illegal under federal law.

At this point, it is difficult to predict how a Florida court would rule in a similar case. Moreover, it is unclear what impact the Trump administration will have on state marijuana laws. Although President-elect Donald Trump expressed during the campaign that regulating cannabis is a state issue, some of his advisors and proposed cabinet members think otherwise.

It is also worth noting that Amendment 2 does not require "the violation of federal law or purport to give immunity under federal law."

Employer takeaway

While we await clarifying regulations from the DOH and, hopefully, legislation from the state of Florida addressing some of the open issues not covered by Amendment 2, there are a few steps employers can take now to minimize their exposure under the new law:

- Educate supervisors not to rely on medical marijuana use as a pretext (excuse) for firing an employee with an underlying disability. When taking an adverse employment action, document the reasons to avoid a pretext argument.
- Employers that maintain "zero-tolerance" drug-testing policies should decide how they will handle registered medical marijuana users and clearly communicate the policies to employees.
- Ensure that any exceptions that might be made for medical marijuana users do not run afoul of any federal drug-testing requirements. For example, the U.S. Department of Transportation's (DOT) regulations do not permit the use of marijuana.
- Consult with experienced legal counsel to closely monitor the changing legal landscape in Florida. This unsettled area of law is ripe for future litigation.

Stay tuned. Any significant developments will be reported in future issues of *Florida Employment Law Letter.*

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WAGE AND HOUR LAW

FLSA and Florida Minimum Wage Act class actions can proceed concurrently

by Jeffrey D. Slanker
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Wage and hour cases continue to be a concern for employers. Employers with large numbers of both exempt and non-exempt employees under the overtime provisions of the Fair Labor Standards Act (FLSA) are particularly susceptible to class action lawsuits. The 11th Circuit (whose rulings apply to all Florida employers) recently addressed whether a group of employees may maintain a class action under both the FLSA and the Federal Rules of Civil Procedure (FRCP) for violations of the Florida Minimum Wage Act (FMWA) at the same time. The FRCP are technical rules that govern how civil litigation cases must be carried out and what is permissible when litigating them. In a blow to employers in the 11th Circuit, the court joined many other federal appellate circuits and held that this is appropriate. The case highlights compliance concerns for employers that could face such wide-reaching class claims in wage and hour cases.

The case

Employees of the Lee County Sheriff's office filed a class action lawsuit alleging violations of the FLSA and the FMWA. The FMWA sets a minimum wage in Florida that is tied to periodic automatic adjustments. The FLSA guarantees a minimum wage to employees for all hours worked and overtime pay for all hours worked over 40 in a workweek. The employees in this case alleged that their employer failed to pay them overtime and the minimum wage required under the FLSA. They alleged that they performed work off the clock for which they were not paid.

The district court initially approved a class action on the FLSA claims but denied the request to present the FMWA claims as a class action under the FRCP. The decision distinguished how members of a potential class action are included under the FRCP versus the FLSA, which has its own provisions that regulate class actions.

11th Circuit disagrees

On appeal, the 11th Circuit held that employees could maintain class actions under both the FLSA and the FMWA at the same time. At the crux of the arguments was the fact that the FLSA requires employees who are potentially part of the class action to "opt in," or consent to be part of the class. The initial requirements to opt in are not onerous, and employees need only show that they are similarly situated to other employees in the class.

However, the FMWA claims were filed under the class action provisions of the FRCP, which are distinct from the FLSA's class action rules. The rules for approving class actions under the FRCP are much more demanding than those found in the FLSA. Several factors must be met, and potential class members are automatically part of a class action unless they "opt out," or decide they do not want to be members of the class. They are bound by the judgment, whether favorable or unfavorable, unless they opt out. As the court explained, "this 'opt-out' requirement is what makes a [class action under the federal rules of civil procedure] a 'fundamentally different creature' than [an FLSA] collective action, which depends for its 'existence . . . on the active participation of [class members].'"

The district court had held that the differences are so fundamental that the two types of class actions could not be maintained at the same time. Disagreeing with the district court, the 11th Circuit reversed, holding that both actions could be maintained at the same time and explaining that there is nothing in the statutes' text or history to suggest that they couldn't be maintained concurrently. *Kevin Calderone, et al. v. Michael Scott, as the duly elected Sheriff of Lee County, Florida,* Case No. 15-14187 (11th Circuit, September 28, 2016).

Takeaway

Wage and hour actions have the potential to be litigated by many employees at once in the form of a class or collective action. This ruling makes clear that both FLSA and FMWA actions can be maintained at the same time, despite some procedural differences. While the new overtime rules instituted by the U.S. Department of Labor (DOL) have been temporarily halted (see the article on pg. 1), wage and hour litigation

continues to be an area of concern for employers. This opinion highlights that concern and the potential exposure facing employers in the form of class or collective actions.

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OVERTIME PAY

Court affirms that fluctuating workweek method meets FLSA overtime requirements

by Tom Harper
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The proposed new salary requirements for an employee to be exempt from overtime pay (which were halted by a Texas federal judge on November 22, 2016) have focused more attention on wage and hour issues. A recent decision by the federal appeals court over Florida approved a Florida employer's lawful use of the fluctuating workweek method to meet the Fair Labor Standards Act's (FLSA) overtime pay requirements.

Some background

Following a U.S. Supreme Court decision in the 1940s, the U.S. Department of Labor (DOL) promulgated regulations approving the use of the fluctuating workweek method, as long as certain conditions are met. The fluctuating workweek method of pay is not an exemption from the overtime pay requirement. Nor is it an affirmative defense.

The fluctuating workweek method of overtime calculation allows an employer to pay a set salary that covers all hours worked. This means the employer only needs to pay a half-time premium above the salary for each overtime hour. In effect, the overtime rate gets smaller as more hours are worked. DOL regulation 29 CFR Section 778.114 sets forth the following requirements for using the fluctuating workweek method:

(1) An employee must be paid on a "salary basis" and have hours of work that fluctuate from week to week.

(2) The employer and the employee must have a *clear and mutual understanding* that the fixed-amount salary compensates the employee for his straight time pay, regardless of how many hours are worked. This means that the employee receives his set salary even if he only works, for example, 30 hours.

(3) The fixed salary must be sufficient to provide a pay rate that is no less than the *applicable minimum wage rate* for every hour worked. (Currently, the minimum wage in Florida is $8.05 per hour. This will increase to $8.10 on January 1, 2017.)

(4) Since the fixed salary is intended to compensate the employee at straight time rates for whatever hours are worked in the workweek, the regular rate of the employee will vary from week to week. The applicable hourly rate for the week (called the base rate) is determined by dividing the number of hours worked in the workweek by the amount of the fixed salary. (Note that the regular rate must be at least the minimum wage.)

(5) Payment for overtime hours at one-half the regular rate (in addition to the fixed salary) satisfies the overtime pay requirement because those hours have already been compensated at the straight-time regular rate.

The FLSA does not define the employee's "regular rate." However, in the case of an employee who is paid a weekly salary for fluctuating hours, the U.S. Supreme Court has found it acceptable to calculate the regular rate by dividing the weekly salary by the number of hours actually worked.

But he was paid!

Danilo Lopez Garcia worked for 14 years as a maintenance and construction worker for Yachting Promotions in Miami. A month after his job with Yachting Promotions ended, Garcia filed suit in federal court seeking unpaid overtime. He claimed that he worked an average of 12 hours of overtime each week and was paid an average of $19.48 per hour for each regular hour worked and $6 for every hour over 40 in a workweek.

Garcia claimed that he was not paid the time-and-a-half overtime rate required by the FLSA and was owed $41,517.36 in unpaid overtime wages for the three years immediately prior to the filing of his suit (February 2012 through January 4, 2015, his last day of employment). His suit also alleged that the payroll practices of his

employer were unlawful and willful, thus entitling him to a *doubling* of the unpaid overtime ($41,517.36) for a total demand of $83,024.72. He also asked for his attorneys' fees and court costs to be paid as a prevailing party.

In response, Yachting Promotions explained that it had properly paid Garcia for all his hours worked, including overtime, by using the fluctuating workweek method of calculating overtime pay.

Garcia claims not to understand

Garcia, who is Hispanic, claimed that he did not understand that he was being paid on a fluctuating workweek basis. Thus, whether there was a mutual understanding between Garcia and Yachting Promotions was an issue for the court to decide. The appeals court explained what an employer must establish in order to show that a mutual understanding exists: "Crucially, the employee must 'clearly understand that the salary covers whatever hours the job may demand in a particular workweek and the employer pays the salary even though the workweek is one in which a full schedule of hours is not worked.'"

To prove that there was an understanding, Yachting Promotions introduced a written agreement signed by Garcia on March 2, 2007. The agreement provided as follows:

> This will confirm that beginning on March 2nd the Company will continue to pay your weekly base salary for all hours worked in a workweek. You understand that your weekly hours will fluctuate and that this base salary will compensate you for any and all hours worked. In order to reward you for those times when your supervisor approves work greater than 40 hours in any given workweek all eligible salaried non-exempt employees will begin receiving at least an additional half-time for those hours greater than 40 in a workweek. To monitor this compensation program, the Company requires [you] to maintain the current practice of: (a) keeping a daily record of the number of hours worked and submitting it to your corresponding office's record keeper; and (b) having received authorization from your supervisor before working more than 40 hours in any given workweek.
>
> This salary method of payment may be changed or modified as deemed appropriate by the Company. If you have any questions regarding this feel free to contact me.
>
> I have read and understand the above.

The federal district court in south Florida found that Garcia was aware of an agreement. He appealed, but the appeals court agreed with the district court. First, the appeals court looked to the agreement signed by Garcia and found that it put him on notice that his weekly salary remained the same regardless of how many hours he worked. Second, even if the court assumed that Garcia did not comprehend English well enough to understand the agreement, it was clear to the court that he

WORKPLACE TRENDS

Survey shows employers plan to focus on retention in 2017. A new survey shows employer compensation plans for 2017 place retention ahead of a desire to control costs. Fifty-three percent of respondents in the Xerox HR Services' 2017 Compensation Planning Survey report that their highest priority in the coming year is retaining top talent. The survey shows a shift from cost control to rewards for top performers. The 10th annual survey found that while pay raises are expected to remain at 3%, nearly all survey participants who plan to offer lump-sum payments in 2017 will do so to reward employees who have reached or are above their pay range maximum. In addition, 37% of employers intend to determine market pay adjustments for high-potential employees.

Consulting firm identifies professions expected to be "hot jobs." Global outplacement consultancy Challenger, Gray & Christmas, Inc., has released a list of professions expected to experience strong employment growth in the coming years, barring an unexpected shock to the economy. Among the fields considered "hot jobs" are jobs centered on collecting, organizing, and managing big data; research and development jobs in all kinds of fields; veterinarians; medical technicians; athletic trainers/physical therapists; sales and marketing professionals; human factor engineers (those who specialize in maximizing efficiency, health, cost, and quality of employees) and ergonomists; teachers; registered nurses; finance and accounting professionals; trade crafts such as electricians and plumbers; and IT and network administration professionals.

Study shows employees considering careers when planning family. A study released in October 2016 by childcare provider Bright Horizons shows that nearly 70% of expectant women and new parents participating in the study said their employer topped the list of considerations when deciding to start a family. The study found that today's generation of parents are determined to build families without postponing or abandoning career ambitions, but they find themselves faced with an unsupportive environment at work. Key findings showed that most women in the survey were excited to return to work after a maternity leave, more than one in three new parents reported feeling that their boss presumed they were less committed to work and would prefer that they left, and new fathers reported being judged negatively by their peers and bosses. The survey found that nearly half of the new parents surveyed had sacrificed salary for a family-friendly workplace and more than half were likely to switch jobs. ✤

understood that the fluctuating workweek method would be used. Indeed, Garcia had admitted in his deposition that he was not paid on an hourly basis, but was paid a salary of $779.84 per week. He also submitted evidence that one of his supervisors had explained to him that he was a "salary employee who did receive overtime."

Resolving the issue of a mutual agreement in favor of Yachting Promotions, the appeals court noted that "an employee does not have to understand every contour of how the fluctuating workweek method is used to calculate salary, so long as the employee understands that his base salary is fixed regardless of the hours worked." With the issue of a mutual agreement resolved, the appeals court affirmed the lower court's dismissal of Garcia's claims and found that Yachting Promotions had properly used the fluctuating workweek method to calculate his salary and overtime pay. Garcia took nothing, and Yachting Promotions was awarded its reasonable costs (not its attorneys' fees) for defending the suit. *Danilo Lopez Garcia v. Yachting Promotions, Inc.*, Case No. 16-10095 (11th Cir., October 27, 2016).

Takeaway

I recommend using this method sparingly. Set the fixed salary high, and monitor the morale of those being paid under this method. Remember that the employee's hours must truly fluctuate.

In its decision, the appeals court noted that once the employer meets the requirements for using the fluctuating workweek method, the burden of proof shifts to the employee to show that the employer failed to properly administer the payments. Make sure that your payroll department makes the correct calculations each pay period. The employer in this case used the DOL's established Coefficient Table for Computing Extra Half-Time for Overtime (form WH-134) to determine Garcia's regular salary. Use this table if you use the fluctuating workweek method.

For WH-134 or other questions, send an e-mail to Tom@EmploymentLawFlorida.com. ✤

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