

DOL Pushes "Initiative"-Focused FLSA Enforcement

By John E. Thompson

Recent U.S. Labor Department news releases show something important about its current approach to enforcing the federal Fair Labor Standards Act:

- ◆ An enforcement initiative directed at Long Island, New York full-service restaurants resulted in assessments of more than \$2.3 million in back wages for 578 employees, as well as in civil money penalties of over \$200,000.
- ◆ DOL is conducting a multi-year enforcement initiative focused upon the construction industry in Connecticut and Rhode Island, where 183 investigations of construction-industry employers have so far recovered nearly \$3.3 million in back wages for 1,226 employees.
- ◆ A DOL enforcement initiative focused upon hand-harvested crops in Florida has generated back-pay of over \$156,000 for 689 agricultural workers and approximately \$680,000 in civil money penalties.
- ◆ DOL is conducting a multi-year enforcement initiative focused upon the gas-station industry in New Jersey, where it has already conducted 74 investigations resulting in over \$1 million in back-wages for 295 workers.
- ◆ An ongoing DOL enforcement initiative targeting full-service buffet restaurants in south Florida has to date resulted in 34 completed investigations involving more than \$667,000 in back wages for 271 restaurant employees, as well as in the levy of over \$14,000 in civil money penalties.
- ◆ DOL has embarked upon an enforcement initiative focusing on the residential-care industry in North Carolina, through which officials seek to remedy what they believe to be "systemic violations" in this industry.

As this reveals, DOL's Wage and Hour Division is allocating substantial resources to broad-based regional, state, and local efforts centered around certain industries and employers. DOL probably feels it appropriate now to make full use of the hundreds of investigators it has hired in the last two years or so, viewing them as being experienced enough to take on these efforts. The categories involved seem for now to be among those to which DOL has devoted heightened attention in the past, that is, agriculture, day-care/residential care, restaurants, garment manufacturing, guard services, healthcare, hotels and motels, janitorial services, and temporary workers. However, employers should not assume that the initiatives will be limited to these industries.

Wage and Hour Laws



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DOL is no doubt scheduling selected employers for compliance audits even though no individual has made an FLSA complaint. And although DOL sometimes undertakes "directed" audits to look into specific issues, management should not necessarily expect an investigator to limit his or her inquiries to these areas.

These efforts are also likely to include compliance reviews of at least some employers whom DOL has previously found to be in violation of the FLSA. And as the summaries above reveal, it is entirely possible (maybe even likely) that DOL will assert FLSA civil money penalties and/or will take more-serious action if these follow-on audits reveal additional shortcomings.

Employers should *immediately* confirm that they are fully in compliance with the FLSA and with all applicable state or local laws.