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FOCUS

Stowe Associates Insurance and Compliance Tips Newsletter



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During the economic downturn and resulting budget cuts, many employers are having difficulty funding all of their Risk Management and Human Resources functions and services. In this era of ever increasing employer liability it is more important than ever to comply with government regulations. Stowe Associates offers many complimentary compliance assistance services.

For more information or to request a no obligation demonstration contact your Stowe Associates representative or Alison Smith at asmith@stoweassociates.com or 770-451-6222.

Labor Department Lawsuit Recovers \$780,000 in Back Wages and Liquidated Damages for 40 Employees of Pizzeria

Court's order also includes \$20,000 in civil penalties for willful violations.

The U.S. Department of Labor has recovered \$780,000 in back wages and liquidated damages for 40 employees of Martino's Pizzeria Inc., doing business as Mama's Pizzeria and Restaurant, in Copiague, N.Y., resolving a lawsuit filed against the company for violations of the Fair Labor Standards Act. The court's judgment prohibits the company and its owners from future violations of the FLSA; orders the immediate payment of \$390,000 in minimum wage and overtime back wages, and another \$390,000 in liquidated damages; and requires an additional \$20,000 in civil money penalties be paid to the government for willful violations of the law.

An investigation by the department's Wage and Hour Division Long Island District Office in Westbury, N.Y., found that several restaurant employees were required to work 70 to 80 hours in many weeks without overtime compensation and were paid less than the federal minimum wage for all hours worked. The defendants paid their employees partly in cash off the books, and kept no time or payroll records indicating their employees' work hours, tips, wages and other conditions of employment, as required by the FLSA. "Our experience has shown that many full service pizza/pasta restaurants on Long Island are willfully underpaying their employees," said Irv Miljoner, director of the division's Long Island District Office. "That was the case here. We are targeting similar employers in this industry for enforcement actions."

As part of the judgment, the defendants are ordered to abide by a compliance plan requiring them to keep accurate records of the hours worked by their employees and prohibiting them from making improper deductions from

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employees' wages. The plan also requires the defendants to ensure that all managers and employees are properly trained with regard to their respective rights and responsibilities under the FLSA. Training must be provided in both English and Spanish.

Additionally, employees must be given copies of the following documents in their choice of English or Spanish: a copy of the compliance plan, the Labor Department flyer "Employee Rights Under the Fair Labor Standards Act" and the Labor Department's "Fact Sheet #23: Overtime Pay Requirements of the FLSA." These are to be provided to existing employees at the time of the required training and to new employees when they are hired. The defendants also must display the poster in English and Spanish in conspicuous places throughout their establishments for their employees to view.

EEOC Sues Convergys Corporation for Religious Discrimination

The U.S. Equal Employment Opportunity Commission (EEOC) recently filed suit against Convergys Corporation, charging that the relationship management company violated federal law by refusing to hire a call center employee who could not work on Saturdays due to his religion.

In its lawsuit, the EEOC charged that Convergys refused to hire an applicant when he told them he could not work on Saturdays because of his religion. The applicant had answered an online advertisement for a customer service position at Convergys's call center in Hazelwood, Mo. The ad stated that a successful candidate should be able to work a flexible work schedule and/or overtime as required, the EEOC said. The applicant's religious beliefs require him to observe the Sabbath from sunup until sundown on Saturday and he can conduct no business at all during these hours. A recruiter for Convergys interviewed the applicant and told him that he would have to work weekends. According to the EEOC, the applicant told her that he was unable to work on Saturdays due to his religious beliefs. The recruiter then told the applicant that the interview was over unless he could work Saturdays.

Title VII of the Civil Rights Act of 1964 prohibits religious discrimination and requires employers to make reasonable accommodations to employees' and applicants' sincerely held religious beliefs as long as this does not pose an undue hardship. The EEOC seeks front pay, back pay, compensatory and punitive damages for the applicant and injunctive relief, including training for all Convergys recruiters on religious accommodations.

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