



Wage and Hour Case Studies:

Insights Into DOL Violations

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Introduction

The U.S. Department of Labor's (DOL) Wage and Hour Division (WHD) enforces federal minimum wage, overtime pay, recordkeeping and child labor requirements of the Fair Labor Standards Act (FLSA). The WHD also enforces the Family and Medical Leave Act and a number of other employment standards and worker protections.

Generally, the WHD will initiate an audit after a current or former employee files a complaint or during a routine investigation. A WHD auditor will visit an organization to conduct interviews, examine time clocks and ensure that all employment notifications are available to employees. The auditor will also review up to three years of wage and hour records to determine whether there are any violations in an employer's payroll practices.

The case studies in this article provide real-world scenarios of employers found to be in violation of wage and hour rules. It includes snapshots of violations and guidance for how those employers could've prevented their situations. By examining these case studies, employers can learn from the mistakes of others in similar industries and avoid DOL violations.



Real-world Case Studies



LOS ANGELES, CA—After an [investigation](#) by the WHD, a restaurant in Commerce, California, has paid \$27,150 in civil money penalties for violating child labor requirements of the FLSA.

What went wrong:

- Five minor employees were routinely assigned to operate trash and cardboard compactors.
 - The employer provided the code needed to open the gate to access the compactors to all staff members, regardless of age.
 - The law prohibits workers under the age of 18 from operating compactors.
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TIPTON, IN—After an [investigation](#) by the WHD, the City of Tipton, Indiana, paid \$91,924 in back wages to 15 firefighters for violations of the overtime requirements of the FLSA.

What went wrong:

- The FLSA provides an exemption allowing employers to pay fire protection or law enforcement employees overtime on a “work period” basis, instead of a standard seven-day workweek.
- Fire protection personnel are due overtime after 106 hours worked during a 14-day work period.
- The City of Tipton failed to pay overtime to firefighters who worked more than 106 hours in their two-week pay period.



MODESTO, CA—The owner of eight residential care facilities in Modesto will pay \$135,092 in back wages to 56 employees and \$27,872 in civil penalties after the [WHD found](#) widespread violations of minimum wage and overtime requirements of the FLSA.

What went wrong:

- The employer paid caregivers flat rates per day, regardless of the number of hours they worked per day or per week, resulting in overtime violations.
 - Additionally, the employer failed to keep accurate records of employees' personal information, weekly hours worked and weekly amounts paid.
 - The employer also failed to display the FLSA poster, as required.
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PASADENA, TX—After an [investigation](#) by the WHD, a men's health clinic has paid back wages of \$3,432 to an employee to whom it wrongly denied emergency paid sick leave and terminated despite a doctor's order for the employee to quarantine with coronavirus symptoms.

What went wrong:

- The employer denied the employee's right to paid sick leave and terminated the employee, both in violation of the Emergency Paid Sick Leave Act.

Correcting the Problems

Avoiding wage and hour violations isn't always easy, as illustrated by the case studies on the previous page. However, with some guidance, an employer can keep their business compliant and their workers happy. Below is general guidance related to the issues discussed earlier, categorized by violation type.



Child Labor Violations

Employers must be hyperaware of potential violations when dealing with minor employees (those under the age of 18). Seemingly routine tasks, such as loading a trash compactor, may actually be illegal for minors to perform. Employers should double-check FLSA rules before assigning tasks to minors. Likewise, employers should ensure sensitive information, such as room codes, are only accessible to those who need them.



Workweek Miscalculations

Sometimes employee schedules don't fit neatly into a 40-hour period. When dealing with abnormal schedules, employers must be especially careful when calculating workweeks. This is important for not only preventing employees from needlessly working overtime, but also for accurately paying those employees when the time comes.



General FLSA Misunderstandings

There are many complex provisions in the FLSA and other DOL rules. That's why it's important to familiarize oneself with such provisions before making major workplace decisions. In the case of the residential care facility employer, there were a variety of violations that could've been prevented with a bit of foreknowledge. These remedies include understanding that flat rates don't necessarily satisfy minimum wage requirements, knowing which employment records to retain and for how long, and posting appropriate workplace posters.



Sick Leave Violations

Granting sick leave to employees is more important than ever amid the COVID-19 pandemic. In fact, it's the law in some cases, as the employer in the Texas case study discovered. Employers should be careful to follow all legal requirements surrounding employee sick leave. This includes pursuing the situation in good faith and getting answers before taking action against employees or denying them leave.

Conclusion

These case studies demonstrate how easy it can be for an employer to violate wage and hour regulations. That's why it's so important for employers to seek professional guidance before making potentially costly decisions. By learning from these employers' mistakes, others in similar industries can avoid major violations and prevent DOL audits.

**Need to help with your worker's compensation program,
contact Kevin Kilcoyne, Barrow Group, LLC, 800-874-4798**

