



Hotels, Motels Still Drawing USDOL Attention (Updated 11 21 13)

Insights

11.20.13

One of the U.S. Labor Department's continuing federal Fair Labor Standards Act enforcement initiatives targets hotels and motels. Officials are following-through on their 2010 warning that they see the hospitality industry as presenting a "high risk" for non-compliance.

Some Recent Outcomes

- USDOL announced that a company operating hotels in New Mexico and Texas agreed to pay nearly \$79,000 in FLSA back wages to dishwashers, bartenders, wait and bell staff, housekeeping employees, and maintenance workers. Some of the alleged violations involved paying only a flat rate of \$3.00 per room cleaned without regard to whether the housekeeper worked more than 40 hours in a workweek; failing to figure overtime premium on employees' incentive payments; and calculating overtime pay based upon tipped employees' less-than-minimum-wage cash wages rather than upon the FLSA's \$7.25-per-hour minimum wage.
- A Tennessee motel will tender nearly \$52,000 in previously unpaid overtime wages, according to a USDOL press release. The Wage and Hour Division asserted that employees had been paid only at straight-time rates for hours worked over 40 in a workweek. A Division official expressed the view that "[a] typical violation in the hotel and motel industry is the failure to pay required overtime premiums."
- A Florida hotel has paid almost \$18,000 to resolve alleged FLSA violations arising from overtime work performed by workers assigned to its premises by a staffing company. USDOL contended that the workers were jointly employed by the hotel and the staffing company. Investigators asserted among other things that the workers' services were carried out under the supervision and control of hotel management. The Division's local District Director said, "Hotels and motels subject to the FLSA cannot use staffing companies to escape their responsibilities to classify and compensate employees properly for all hours worked."

The Risk Is Real

USDOL's descriptions of its enforcement activities since 2009 differ from one account to the next. One press release says that the Wage and Hour Division has conducted nearly 4,000 industry investigations and has recovered over \$12.4 million for more than 23,000 workers nationwide. Another published on the same date refers to almost 5,000 investigations, more than \$15.1 million recovered, and over 28,000 affected workers.

Whatever the actual figures are, clearly the agency is devoting substantial resources to the effort to considerable effect. Industry employers should ensure without delay that their pay practices are in compliance.

UPDATED 11 21 13: USDOL has reported on two more significant enforcement actions:

- One press release says that a California hotel franchisee will pay more than \$128,000 in FLSA back wages, liquidated damages, and civil money penalties in connection with 16 housekeeping employees. Alleged violations included not paying the requisite overtime premium, maintaining payroll records that did not accurately or properly reflect actual compensation, and failing to keep accurate records of all of the employees' hours worked.
- Another announced that a California hotel has agreed to pay almost \$60,000 in FLSA back wages to 53 employees, including housekeeping and maintenance workers. The Wage and Hour Division asserted that employees' hours worked in a workweek at two different properties operating under common management were recorded on separate records, such that the worktime was not combined for purposes of determining whether an employee had worked more than 40 hours in a workweek. The Division also contended that management had automatically deducted a 30-minute lunch period from hours worked even when an employee did not take a meal break.