

Recent Developments in Federal & State Law



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Federal Law

Flores v. City of San Gabriel (9th Circuit)

- Cash in lieu of health benefits
- City argued not part of regular rate of compensation because not for hours worked
- Court: Under FLSA, cash in lieu of benefits is compensation for services that must be considered in overtime calculation

Federal Law

SEC Enforcement Regarding Severance Agreements

- SEC Whistleblower Award Program – Public Companies
- *Blue Linx Holdings*: Standard confidentiality and non-disclosure
- *Health Net Inc.*: Explicit bar on acting as whistleblower
- Both companies reached six-figure settlements
- Non-public companies: DOL, IRS, EEOC, NLRB

Federal Law

Fair Labor Standards Act (FLSA) Overtime Exemptions

- Increase to minimum salary of \$47,476; subject to duties test
- Increase highly compensated exemption to \$134,000
- Effective December 1, 2016
- Great opportunity to review exempt/non-exempt status

Federal Law

Federal Potpourri

- Student internships: not free labor!
- Sexual Orientation: a protected class
- Individual FMLA liability for HR Director;
Graziadio v. Culinary Institute of America
(2nd Circuit)
- Class Action waivers not enforceable in
employment agreements; *Morris v. Ernst &
Young, LP* (9th Circuit)

Washington State Law

Busey v. Richland School District

- Washington Law Against Discrimination – RCW 49.60.180
- Marital Status discrimination
- Fired School superintendent for having *extramarital* affair with school employee. Court held that plaintiff had claim under WLAD because of focus on fact that superintendent was married.