

“OH, NO! IT’S WAGE AND HOUR!”

***UNDERSTANDING THE
FAIR LABOR STANDARDS ACT OF
1938***

by

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- **What do the NEW REGULATIONS say about who is EXEMPT and NON-EXEMPT from overtime pay?**
- **Who is an EMPLOYEE and who is an INDEPENDENT CONTRACTOR?**
- **How is OVERTIME CALCULATED and paid?**
- **What is “ROUNDING” ... and how do I use it for “clocking in and clocking out”?**
- **Can I DEDUCT money owed to me from my employees’ wages without a signed agreement?**
- **How long do lunches have to be in order for them to be unpaid?**
- **Do I have to give my employees BREAKS? When are breaks UNPAID?**
- **When do I have to pay for TRAVEL TIME?**
- **When do I have to pay for time spent TRAINING my employees?**

OUTLINE

I. PURPOSE AND COVERAGE

- A. In General**
- B. Employees v. Independent Contractors**

II. MINIMUM WAGE

- A. Rate and Subminimum Exceptions**
 - 1. What is minimum wage?**
 - 2. Paying different rates of pay for different jobs**
 - 3. Agreements for wage reduction**
 - 4. Reducing employee wages without an agreement**
 - 5. Exceptions to the minimum wage requirement**
- B. Tipped Employees**
- C. Non-Cash Wages**

III. CHILD LABOR

IV. OVERTIME PAY

- A. Definition of Overtime**
- B. Exempt v. Nonexempt Employees**
- C. Standard Of Review, Burden Of Proof and Rule Of Construction For Determining Exempt Status**
- D. Bona Fide Executive Employee's Minimum Salary and Duties Test**

- E. Bona Fide Administrative Employee’s Minimum Salary and Duties Test**
 - 1. Directly Related to Management or General Business Operations**
 - 2. Employer’s Customers**
 - 3. Discretion and Independent Judgment**
 - 4. Matters of Significance**
- F. Bona Fide Professional Employee’s Minimum Salary And Duties Test**
 - 1. Primary Duty**
 - 2. Work Requiring Advanced Knowledge**
 - 3. Field of Science or Learning**
 - 4. Customarily Acquired by a Prolonged Course of Specialized Intellectual Instruction**
 - 5. Practice of Law or Medicine**
- G. Highly Compensated Employees**
- H. Computer Professional Test**
- I. Outside Sales Exemption**
- J. Other Exemptions**
- K. The Salary Test**
- L. Public Sector Employees’ Exemption To The Salary Test**
- M. Outside Sales, Teachers, Lawyers and Physicians**
- N. Family and Medical Leave Act (“FMLA”) and the Salary Test**
- O. “Window of Correction” For Damages Under The Salary Test**

V. THE PAYMENT OF WAGES

A. Working Time

- 1. In General**
- 2. Workweek Defined and Compensatory Time**
- 3. Breaks**
- 4. Call-In or Call-Back Time**
- 5. On Call Time**
- 6. Rounding, or Averaging, Employee Work Time**
- 7. Sleeping Time**
- 8. Testing and Examinations**
- 9. Training Time**
- 10. Travel Time**
- 11. Unauthorized Overtime**
- 12. Waiting Time**

VI. DAMAGES UNDER THE FLSA

- A. Willful v. Nonwillful Violations**
- B. Liquidated Damages**
- C. Other Remedies**



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- **Masters degree in Labor and Human Resources: The Ohio State University**
- **Capital University College of Law (Class Valedictorian (1st out of 233))**
- **Lifetime Senior Professional in Human Resources (SPHR) accreditation**
- **Winner of the Human Resource Association of Central Ohio's Linda Kerns Award for Outstanding Creativity in the Field of Human Resource Management and the Ohio State Human Resource Council's David Prize for Creativity in the Field of Human Resource Management**
- **Scott is President of his own Human Resource Consulting, Employment Law and Training Firm based in Columbus, Ohio specializing in:**
 1. **PREVENTING Employee Problems from happening,**
 2. **Training Managers and Employees ON-SITE in over 30 topics and**
 3. **Keeping HR Professional's UP TO DATE WITH THE CHANGES IN THE LAW with his MONTHLY NEWSLETTERS AND ANNUAL AUDIO TAPES.**

Scott Warrick was the highest rated presenter at SHRM's 2003 National Diversity Conference in New York City. Scott has now been invited back to present his "Tolerance in the Workplace: Management v. Employees" session at the 2006 SHRM National Diversity Conference in Los Angeles in October of 2006.

Scott travels the country presenting his "Intolerance of Intolerance: Diversity/Tolerance Awareness Program." Scott's clients include The Gap, Skyline Chili, The Ohio Supreme Court, Heinz, Fayette County Hospital, Honeywell, Caraustar International, Utah Workforce Development, etc.

Solving Employee Problems BEFORE They Happen!

HERE'S WHAT ATTENDEES SAY ABOUT SCOTT WARRICK'S SESSIONS...

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