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Wage and Hour Update: Sixth Circuit Holds Computer Employee Overtime Exemption Centers Around Duties, Not Education, Degree or Job Title

In a recent opinion, the Sixth Circuit found that the Federal Labor Standards Act (FLSA) overtime exemption for computer employees does not require a particular degree, level of education, or job title. Rather, the Court held that in assessing the applicability of the computer employee overtime exemption, Courts should be focused on the employee's primary and actual duties rather than their educational backgrounds, degree or job title.

In *Loren Bennink v. Cincinnati Bell Telephone Company, LLC*, the Sixth Circuit analyzed whether the FLSA overtime exemption for computer employees applied to an IT employee whose work focused on implementing and maintaining his employer's interactive voice response technology (IVR) system. The FLSA computer employee exception applies to "any employee who is a computer systems analyst, computer programmer, software engineer, or other similarly skilled worker" with the primary duty of "design, development, documentation, analysis, creation, testing, or modification of computer systems or programs . . . based on and related to user or system design specifications."

The Court found that many of the employee's duties fell within the duties described under the exception – including the documentation, design, and development of a computer system – and, importantly, that these were his primary duties. In concluding that these responsibilities of documentation, design, and development of the IVR system were the employee's primary duties, the Court relied on the fact that they were central to the purpose of his initial hiring and central to his workload.

The Court rejected the employer's argument that the employee had no formal training in computer systems or coding, as the FLSA did not contain an explicit educational requirement. The Court also found the employer's argument that the employee's duty of documenting and mapping out the IVR system was "little more than creating 'complicated flowcharts'" to be unconvincing because the computer employee exception did not require the "theoretical and practical application of highly specialized knowledge."

The Court emphasized that its focus was "on the responsibilities targeted by the statute" and found meaningful that "[n]otably absent from the statute [wa]s any requirement of a particular degree, level of education, or job title" and also that the relevant regulations "ma[de] no mention of education or a highly specialized skillset" but merely reiterated the pertinent duties required to qualify for exemption status.

This case is a good reminder for employers of the importance of ensuring that the actual day-to-day duties of an exempt employee match their exemption, as opposed to over-reliance on factors such as job title, educational background or job descriptions. An employee's actual duties are central to applicability of any exemption under the FLSA and should be carefully considered.

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Key Contacts

Our Labor & Employment Law team is available to assist employers in evaluating exemption status under the FLSA and state wage and hour laws, as well as to address wage and hour related issues or any other employment law matter.

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