

Labor Commission Rescinds Letter Addressing New Exemption Standards

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California employees are entitled to overtime pay, meal periods, and rest periods unless they qualify as "exempt." The key exemptions are called the "white collar exemptions" and are available to executive, administrative and professional employees who meet the applicable rules. In order to qualify under California's exemption standards, employees (1) must be paid on a salary basis, and (2) must devote a majority of their time to exempt duties.

In a recent Labor and Employment Update, Sheppard, Mullin advised its clients of a May 30, 2001 letter authored by Miles Locker, Chief Counsel for the Division of Labor Standards Enforcement ("DLSE"). In the May 30th letter, addressed to Richard J. Simmons of Sheppard, Mullin, the DLSE issued new exemption standards that significantly departed from the prior requirements for the state white-collar exemptions. The new standards outlined in the May 30th letter widened the gap between the state and federal laws in many ways and caused great alarm in the employer community.

On June 15, 2001, the Industrial Welfare Commission ("IWC") held a meeting and assessed the May 30th opinion. Representatives from a number of employer groups, as well as Richard Simmons of this firm, expressed opposition to the position taken by the DLSE.

In a significant turn of events, a new letter was issued by the DLSE on June 22, 2001 to Richard Simmons by Arthur S. Lujan, the State Labor Commissioner. In the letter, Mr. Lujan indicated that the DLSE has "decided to withdraw the [May 30th] letter as the Division's enforcement position." The letter further states that "[t]he Division will seek clarification of the criteria for determining the correct interpretation of 'salary' in this context, and follow the policy which results, on both current and future claims and cases." Mr. Lujan's June 22nd letter is now posted on the DLSE's website (www.dir.ca.gov/dlse/dlse.html).

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