



## Wage and Hour Settlements Rise 43% in 2009

An annual report showed that the top ten private wage and hour settlements paid or agreed to in 2009 under the Fair Labor Standards Act (FLSA) totaled \$363.6 million. This represents a 43.9 percent increase from 2008. Judy Greenwald, "Top wage-hour class actions settlements soared in 2009," *www.businessinsurance.com* (Jan. 24, 2010).

The 575-page report issued by a Chicago-based law firm looked at 715 cases. The attorneys found that the ten largest settlements were evenly split between nationwide and state-specific claims. Five of the settlements resolved lawsuits pending in federal or state courts in California.

The typical wage and hour lawsuit involved failure to pay overtime, often as a result of misclassifying hourly workers as exempt employees.

Here are some trends noted or predicted in the report:

- In 2009 wage and hour litigation continued to outpace all other workplace class actions.
- The Obama administration's emphasis on regulation and enforcement is expected to lead to more investigation and governmental lawsuits in 2010.
- Plaintiff lawyers will likely continue to expand the size of classes and the scope of recoveries.

### *Commentary*

In September 2009, the Department of Labor (DOL) announced its intention to intensify its investigation of wage and hour violations by hiring 250 additional investigators. Wage and hour litigation is also a key area of private employment litigation, in particular class actions.

Employers should carefully examine their wage policies for possible violations, paying close attention to classification of employees and payment for legally required breaks.

### **Related Links**

[DOL Reference Guide to the FLSA](#)

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