



Issue 1, April 4, 2018

● The Editors' Note

Welcome to 2018's first edition of *SuperVision*, the e-newsletter of Spilman Thomas & Battle's Labor & Employment Group. This year, our commitment to remaining immersed in our clients' issues includes not merely offering sound legal advice, but working with you on big picture issues.

A major part of that focus is covered by our SuperVision symposium series. In addition to exploring the big issues in employment law, we are discussing best practices for conducting investigations in bet-the-company compliance situations. Those issues include corporate criminal charges, sexual misconduct allegations, and corporate ethics investigations. Our first symposium is scheduled for Tuesday, April 17 at PNC Park in Pittsburgh from 1:00 to 5:00 p.m. We would love for you to join us. As always, there is no charge to attend for our friends and clients. To do so, please contact April Bias at (304) 720-5699 or abias@spilmanlaw.com, or register directly [here](#). In addition, we will be conducting SuperVision symposia in Charleston, West Virginia on June 22 and in Greensboro, North Carolina on September 7.

In this issue of *SuperVision*, Spencer Cook examines one of the offshoots of the #MeToo movement--the tax ramifications of settling harassment lawsuits. Mitch Rhein explores a recent Supreme Court decision redefining the boundaries of who can be exempt from overtime in the auto industry, and our Charleston team explores a pair of changes to West Virginia law that will impact employers--one favorably, one less so.

We hope you enjoy this issue. Feel free to [contact us](#) if you have any suggestions for future articles.

[Eric W. Iskra](#), Chair, Labor and Employment Practice Group
[Eric E. Kinder](#), Executive Editor, *SuperVision*

● #MeToo Movement Creates Change in Tax Code

By [J. Spencer Cook](#)

During the height of the #MeToo movement and in the wake of the Harvey Weinstein scandal, Congress enacted a sweeping tax reform bill containing a provision intended to penalize businesses that settle claims involving sexual harassment or sexual abuse if they include nondisclosure agreements as part of a settlement. As with many rushed pieces of legislation, legal commentators have more questions than answers about the practical effect of this tax amendment.

Click [here](#) to read the entire article.

● Want the Warranty with That? Car Dealerships, Service Advisors and Overtime Pay

By [Kevin L. Carr](#) and [Mitchell J. Rhein](#)

On April 2, 2018, the Supreme Court of the United States issued its opinion in *Encino Motorcars, LLC v. Navarro*, holding that, because service advisors at car dealerships are "salesm[e]n . . . primarily engaged in . . . servicing automobiles," they are exempt from the Fair Labor Standards Act's overtime-pay requirement. According to the National Automobile Dealers Association, more than 100,000 service advisors are employed at dealerships nationwide. The Court's opinion is significant for dealerships because it means the FLSA does not require they pay service advisors overtime if they worked more than 40 hours in a week.

Click [here](#) to read the entire article.

● They Giveth and They Taketh Away - 2018 West Virginia Legislative Session and Employers

By Kevin L. Carr, Eric E. Kinder and Chelsea E. Thompson

This year's regular session of the West Virginia legislature simultaneously granted employers more rights while taking some away.

First, the good news. Employers in West Virginia may now withhold from an employee's final wages the replacement cost of some items they provide to an employee that the employee fails to return at the time of separation.

Now, the less good news. House Bill 4187, otherwise and curiously known as the "Business Liability Protection Act," prohibits employers from taking certain actions against persons who legally possess firearms while also providing new provisions granting immunity from liability.

Click [here](#) to read the entire article.

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