



SuperVision™ TODAY

LABOR & EMPLOYMENT NEWS

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Upping the Ante: Fines Increase for Failure to Comply with ACA Reporting Requirements

By [Anna L. Sweigart](#)

The deadline for employers to comply with the ACA reporting requirements is finally here, with reporting first due in 2016. In keeping with the ACA's historical pattern of ever-changing regulations and requirements, President Obama signed into law the Trade Preferences Extension Act of 2015, which effectively doubled ACA fiscal penalties overnight. These increased penalties, which the Congressional Budget Office listed as the ACA's largest funding source, will apply to the information returns most large employers will file for the first time under the ACA in 2016.

Beyond the ACA, there are increased penalties that will also apply to other information returns and payee statements.

Click [here](#) to read more.

Notes from the Chair and Executive Editor

Welcome to the third quarter edition of *SuperVision Today*, the quarterly e-newsletter published by Spilman's Labor & Employment Group.

Our next SuperVision™ webinar is scheduled for noon on Tuesday, September 1, 2015. King Tower and Larissa Dean will be addressing the latest from the United States Department of Labor ("DOL") regarding wage and hour issues. Primarily, Larissa and King will discuss the proposed changes to the federal overtime white collar exemptions (focusing on the new proposed regulation that will substantially increase the salary required to qualify for the exemption) and the recent DOL guidance on distinguishing between employees and independent contractors. This webinar is free to attend and is vital to any employer dealing with independent contractors or white collar exemptions. If you would like to attend, please click [here](#), and we would be happy to include you.

This time of year, we take our SuperVision™ symposium on the road. We will be at the Patrick Henry Ballroom in Roanoke, Virginia on September 17, 2015, and the WinMock in Winston-Salem, North Carolina on September 18, 2015. This year Spilman attorneys and business executives will discuss a variety of human resources topics, including evaluating talent, conducting workplace investigations, mitigating risk of employee separations, navigating mandatory leave laws, and understanding the latest from the NLRB. Space is always limited, so click [here](#) to reserve your place or contact Pamela Kesling at 304.720.4065 or pkesling@spilmanlaw.com for additional information. We look forward to seeing you in Roanoke or Winston-Salem if you missed us in Pittsburgh or Charleston, West Virginia.

Retaliation Litigation On the Rise: The SEC's Broadening Interpretation of Dodd-Frank's Whistleblower Provisions

By [Gordon L. Mowen, II](#)

The Dodd-Frank Street Reform and Consumer Protection Act of 2010 instituted sweeping changes to the financial sector of American industry. In addition to increased federal oversight, the Act implemented a "whistleblower" protection designed to safeguard an employee who alerts the SEC of potential violations of securities law or participates in a government-lead whistleblower investigation from discipline or termination. But the SEC's recent broad interpretation of this rule now means that employees who report concerns to their supervisor or human resources, rather than merely to the SEC, now also are protected under this provision.

Click [here](#) to read more.

And the Fourth Circuit Decides....Rule Exempting Certain Employee Management Professionals from Retaliation Lawsuits Not Applicable in Title VII Context

By [Mitchell J. Rhein](#)

Employers in the Fourth Circuit states of Maryland, North Carolina, South Carolina, Virginia and West Virginia must now be mindful that employees who deal with complaints of discrimination and harassment can point to that work as the basis for a retaliation lawsuit under federal law. The Fourth Circuit held that managers who deal with discrimination and harassment issues can bring retaliation claims under Title VII for work they do as part of their job.

In this edition of *SuperVision Today*, King Tower explores the latest guidance from the DOL on salary thresholds for exemptions and independent contractors. Anna Sweigart details the increased penalties for employees who fail to file proper returns regarding the Affordable Care Act. Gordon Mowen provides an update on Sarbanes/Oxley requirements, and Mitch Rhein takes a look at a recent Fourth Circuit opinion on retaliation.

We strive to make each edition of *SuperVision Today* timely and useful. As always, if you have any questions or topics you would like us to cover in the future, please do not hesitate to let us know.

[Eric Iskra](#), Chair, Labor & Employment Group
[Eric Kinder](#), Editor of *SuperVision Today*

Department of Labor Makes Its Move

By [King F. Tower](#)

With just more than a year left in this administration, the U.S. Department of Labor ("DOL" or "Department") has rolled out two major initiatives that promise to keep employers busy ensuring that they are in compliance.

First, in a long-awaited regulatory decision, the DOL announced that it will be increasing the salary threshold for the most commonly used exemptions from minimum wage and overtime pay.

Second, the DOL has issued a new guidance document for employers signaling that the Department will be launching a campaign to combat the misclassification of workers as independent contractors instead of employees.

Together, these efforts indicate that the Department wants to use the remainder of the President's term to push for significant changes in wage and hour law enforcement.

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

Click [here](#) to read more.

Featured Team Member Anna L. Sweigart, Winston-Salem



Ms. Sweigart is an associate attorney in the firm's Winston-Salem, North Carolina office. Her primary area of practice is civil litigation with a focus on labor and employment law and workers' compensation. She advises management on compliance issues and other labor and employment issues, including EEO policies and practices. She also represents employers in litigation and in administrative proceedings and investigations by the EEOC and Department of Labor. Admitted to practice law in North Carolina, she earned her undergraduate degree from the University of North Carolina at Chapel Hill and her law degree from Wake Forest University School of Law.



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