

THE INFORMER

published by NVLSA...the association for legal professionals

Volume 11 – Issue 7

January 2010

Mission Statement

NALS is dedicated to enhancing the competencies of members in the legal services profession. It accomplishes its mission and supports the public interest through:

- Continuing legal education and resource materials
- Networking opportunities at the local, state, regional, and national levels
- Commitment to a Code of Ethics & Professional Responsibility
- Professional certification programs and designations



NVLSA'S UPCOMING MEETINGS AND EVENTS

NVLSA next membership meeting will be **Tuesday, January 5, 2010** at Hunton & Williams located at 1751 Pinnacle Drive, 17th Floor, McLean, Virginia 22102 beginning at 6:30 pm. Jon Owens from Edwards & Owens Financial Management will present to our group on "Personal Financial Management."

NVLSA February meeting will be **Tuesday, February 2, 2010** at Alexandria City Hall, Room 2000 located at 301 King Street, Alexandria, Virginia 22314 beginning at 6:30 pm. James L. Banks, Jr., Esq., Alexandria City Attorney will present to our group on "Labor Law."

NVLSA March meeting will be **Tuesday, March 2, 2010** at Hunton & Williams located at 1751 Pinnacle Drive, 17th Floor, McLean, Virginia 22102 beginning at 6:30 pm.

NVLSA April meeting will be **Tuesday, April 6, 2010** at Alexandria City Hall, Room 2000 located at 301 King Street, Alexandria, Virginia 22314 beginning at 6:30 pm.

WELCOME NEW MEMBERS

Joyce S. Cole

Alyssa D. Furman

Pamela Haddon

Annette L. Honsinger

Susan Lokey

OCTOBER - DAY-IN-COURT

Robin Wilson, PLS organized one of the best Day-in-Court activities to date.

NVLSA...the association for legal professionals, met with Alexandria Chief of Police Earl Cook on October 27, 2009. He spoke with us on various issues from football to the budget. Being the newly appointed Chief of Police,

his time is of great demand. He seemed quite delighted to speak with us and to take a break from his busy schedule and just sit, relax and talk.

After the meeting with Chief Cook, we were transported to the Communications Division. Sgt. Bennett Bolton and ECT Supervisory Ray Allen demonstrated to us what occurs when a 911 call comes in and what the technicians and dispatchers are trained to do. We found that there is more than meets the eye when receiving a 911 call. In this position, you have to be able to multi-task. There are three computer terminals per person that must be operated. The technicians transmit the 911 emergency via computer to the dispatcher who dispatches officers to the scene. This position maintains four computer terminals, which include a geographical map of the city. We were informed that at least a thousand of calls come in on a daily basis.

After the tour of the Communications Division, we were greeted by Deputy Sheriff/Sergeant Monique Rea. She gave us a tour of the holding facilities, medical facilities, main population, solitary confinement and the detoxification facility. Most of the inmates work in the facility. We met the bomb dog, Sherman, who was on duty. We visited many of the administrative offices and met with some of the Commanders and Deputy Sheriffs. We were allowed to visit the control center of the jail. The operator of the control center has to maintain more than 10 computers. This position is the hub which operates the entire jail facility. This center has buttons and whistles that operate the elevators, doors, gates etc. No one can come in or out of the facility without the control center's knowledge or assistance. The control center is supposed to be manned by two employees but most times it is manned by one.

We were graciously offered lunch during our tour by Deputy Sheriff Rea, but our visit lasted almost three and one-half hours and we didn't want to wear out our welcome.

One of our best Court Observances yet!

NOVEMBER - LEADERSHIP WORKSHOP

During the month of November, our association was presented a leadership workshop by Rev. Dr. Clinton H. Saunders, Jr. The following is a summary of the workshop.



What does it take to be a good leader? First a good leader is a good follower. How can a person lead, if he does not know how to effectively follow. Leaders are born or they can be made.

A leader should have a clear vision and he/she should be able to communicate that vision in such a way that others will want to share his/her vision; however, before that can be done a leader must be approachable. If you demonstrate characters of an unapproachable leader, how can you effectively lead? There are three aspects to leading (1) technical; (2) emotion and (3) business. Let's take the first aspect - technical. The technical portion is how to perform the duties of the task at hand. Our day-to-day task often times becomes so routine that the technical portions of leading comes second nature. Now let's apply the emotional aspect of leading. We have to care for what it is that we do and more importantly the people that we lead. If you do not care for your position and the duties that it entails, nor the people that you work with or work for you, how can you effectively lead? The last aspect of a good leader is the business side. To be successful a good leader must develop and implement a clear vision and mission. This vision must be communicated in an effective manner in such a way that his/her staff has a good understanding. The vision must be viewed as achievable by his/her staff. If this vision is communicated effectively, his/her staff should be able to identify the impact they will have on the vision/mission and will have a better understanding of what is expected of them.

Also, good leaders always know his/her professionalism and ability to lead will be a representation of the company. Showing good leadership and being an effective leader is always a good business practice.

DECEMBER – HAPPY HOLIDAYS

Good wishes to you and yours this Holiday season.

Best wishes for happy and prosperous new year!!!

MAKE MONEY IN 2010: YOUR JOB

By Donna Rosato, Money Magazine senior writer
Last Updated: November 13, 2009: 12:42 PM ET

Raises should make a comeback, but keep an updated resumé handy.



(Money Magazine) -- Despite all the talk about economic recovery, you're probably still anxious about next year's job market -- worried not necessarily about your

position but maybe your spouse's or your adult kids' or your best pal's.

Your concern is understandable. According to the consensus estimate from the Blue Chip Economic Indicators, the jobless rate will steady in the first half of 2010, before dipping to 9.6% by year-end.

Continued high unemployment after a slump has become more common in recent years; after the last two recessions, it took two to three years for the jobless rate to return to pre-recession levels.

What's different now: Economists say the severity of this downturn means that it could take even longer for unemployment to drop below 5% as it was in 2007, if it ever does. Structural changes in industries from manufacturing to media, coupled with strong gains in productivity, are enabling companies to do more with fewer people -- perhaps permanently, says economist Sophia Koropecyk of Moody's Economy.com.

Still, there are bright spots. You'll probably nab a raise next year, although it will be a relatively skimpy one. Nearly half of large companies froze salaries in 2009, but just 13% intend to do so in 2010, says Hewitt Associates.

Hiring plans are picking up in some hard-hit sectors: 31% of service businesses say they'll add jobs in the next six months (up from 16% in April), as do 29% of finance, insurance, and real estate firms, the National Association for Business Economics reports. And industries that held up well during the recession, such as health care, education, and technology should continue to expand in the new year.

Wild card: A sharp rise in energy prices could hurt already fragile consumer and business spending, which in turn could prolong hiring and pay freezes at many firms.

Signs to watch: Three months of steady growth in the average workweek (reported monthly at bls.gov) should signal stronger job growth ahead. Companies have cut employee work hours so much that they will boost the number of hours worked before hiring in earnest.

The action plan

Don't fly below the radar. Working hard and keeping your head down won't prevent you from becoming a layoff target. To secure your position and have a shot at a decent raise, you not only need to excel at what you do, you have to make sure your boss and other higher-ups notice, says executive recruiter Stephen Viscusi, author of "Bulletproof Your Job."

Seek out high-profile or cross-department assignments, actively contribute at meetings with senior colleagues, and volunteer to take on additional responsibilities -- an especially valuable tactic now, with so many fewer employees around to handle the work load.

Get paid for results. Raises will average just 2.7% next year -- the first time in more than 30 years that average pay hikes will fall below 3% for two years in a row, Hewitt reports. Earn a reputation as a top performer and you may nab more: The highest-rated workers will get an average boost of 4.8% in 2010, according to the latest compensation survey from Mercer, a benefits consulting firm.

If your company is among those still freezing base pay, try instead to negotiate a bonus tied to key, quantifiable company objectives: 86% of organizations have some kind of short-term incentive pay program linked to financial goals, operational performance, or customer satisfaction, Mercer notes.

Restore that salary reduction. Sure, a pay cut is preferable to a job cut. But if your hours were reduced or your salary slashed outright in the recession, start strategizing about when and how to get that money back.

First read the tea leaves: Have profits improved at your firm? Have layoffs stopped and hiring started? If so, the timing may be right. Prepare examples to prove you're deserving -- showing, say, you've taken on extra duties, worked longer hours, or slashed costs. Then ask your boss for a salary review.

Jump-start your job search. If you've been out of work for a while -- the average job search now takes 27 weeks vs. 19 last year -- change your tactics. Expand the options by looking at employers in different but related industries or different positions in the same field. Lower your salary expectations -- akin to dropping the price of a house if it's been on the market too long. Update your skills, says executive recruiter Kimberly Bishop, who suggests pulling job descriptions from corporate Web sites and comparing your experience with what companies are looking for. Then take a class -- you've got time, right? -- to fill in any gaps.

Be prepared -- just in case. Even if your job seems secure, the prospect of double-digit unemployment should spur your Scout instincts. Take care of basics: Beef up your

emergency fund, identify expenses you could cut if needed, and consider what you'd do about health insurance if you get the ax.

Update your résumé and start reconnecting with folks in your professional network. Join industry forums, and seek endorsements on LinkedIn. And if a friend or colleague is laid off and turns to you for advice, assistance, or just to vent, be there for him or her. One day your pal may be in a position to recommend or hire you.

DISPELLING COMMON MYTHS ABOUT THE FLSA'S OVERTIME REQUIREMENT



By A. Tevis Marshall and
Matthew R. Almand,
Employment & the Law,
Troutman Sanders Newsletter

*Submitted by Robin Wilson,
PLS*

The Fair Labor Standards Act (FLSA) is a more complicated statute than most employers realize. Yet, rather than taking the time to educate themselves about the intricacies of this complicated statute, particularly its overtime provisions, many employers are relying on common myths and misunderstandings that are circulating about the Act to justify their pay practices. As a result, according to the Department of Labor (DOL), a staggering 70% of employers are not in compliance with the FLSA. Many of these employers are finding themselves defending against a costly DOL investigation and/or collective action lawsuit and, therefore, are facing unexpected, unbudgeted financial (and even criminal) consequences. In fact, statistics show that FLSA collective actions are now filed more frequently than all other types of federal workplace class actions, including claims under the Age Discrimination in Employment Act (ADEA), Title VII of the Civil Rights Act (Title VII), and the Employee Retirement Income Security Act (ERISA).

Most employers understand the basic tenet of the FLSA that requires employers to pay nonexempt employees overtime compensation for any hours worked in excess of 40 hours per workweek. Nonetheless, the most common complaints, brought under the FLSA continue to be for violations of its overtime requirements. In 2007, the DOL reported that overtime violations represented roughly 90 percent of all collected FLSA back wages. So why are employers still finding themselves out of compliance with the FLSA? Well, all too often, employers inadvertently violate the FLSA because of simple misunderstandings of how the law works. Here are just a few of the most common myths and misunderstandings that have recently been at issue in lawsuits brought against employers under the FLSA:

“Our employees are all paid on a salary basis, therefore they are not entitled to overtime.”

Just because an employee is “salaried” does not mean that he or she is exempt under the FLSA! If an employer could avoid having to pay overtime by placing everyone on a salary, hourly workers would disappear overnight. It’s not that easy. An employer must show not only that it pays its exempt employees on a “salary basis” (as defined in the DOL regulations) of at least \$455 per week (or \$23,140.00 annually), but also that the job duties of these employees bring them within one of the several statutory exemptions (e.g., executive, administrative, professional, computer professional, outside sales, highly compensated employees, etc.). Which leads to the next common myth ...

“As long as our employees are given the job title of ‘manager’ or given at least some supervisory responsibility, we can classify them as exempt employees. “Wrong! Just as an employer cannot rely solely on the method of compensation to determine whether a group of employees are exempt from the FLSA overtime provisions, an employer also cannot ignore the job duties tests associated with each statutory exemption. The job duties test for determining whether an employee qualifies for one of the exemptions is a fact-intensive inquiry that must be applied on an employee-by-employee basis. For example, just because one vice president at a company qualifies as exempt does not mean that all other vice presidents are also exempt. Likewise, merely placing the word “manager” in their job title, or even granting them some supervisory responsibility, does not automatically mean that employees in that job classification are exempt. Instead, an employer must look to the precise definitions provided by the regulations to determine the appropriate classification.

“Our employees all signed an agreement stating that they waived their right to receive overtime pay.”

Guess what? Your agreement is unenforceable. In addition, you may have just made it much easier for a plaintiff’s attorney to prove that your company intended to willfully violate the FLSA. An employee may not waive his or her right to overtime pay.

“Our employees may be at work for 45 hours a week, but we dock 1 hour a day to account for meal periods and other breaks.”

Many employers dock 30 or 60 minutes a day for the time that employees are presumed to be taking breaks. Big mistake! It is the employer’s burden to show how many hours an employee actually worked when defending a claim for overtime. If every employee in your workforce claimed that they worked through every meal/break and rest period, yet you failed to track their time, you have a big problem. Make sure that you track your employees’ actual hours by having them clock in and out for breaks if

necessary. Even where the job lends itself to allowing the employee to keep up with his or her own hours, it is nevertheless important for the employer to implement a system that holds the employee accountable for keeping accurate records.

“We don’t have to pay for overtime unless it was approved in advance.”

There is nothing wrong with requiring employees to receive approval prior to working overtime, but overtime cannot be denied because they failed to do so. The FLSA makes no distinction between “approved” and “unapproved” overtime.

“We pay overtime, but we average our employees’ hours over two weeks.”

Be careful with this one. Most employers pay their employees every two weeks, but for purposes of calculating overtime, the FLSA looks at each workweek in isolation and requires that overtime be paid for any hours worked in excess of 40 hours in a single work week (some states like California impose even more restrictive overtime requirements). Thus, if an employee works 60 hours in one week, but doesn’t work at all the next week, you can’t average the two weeks together to arrive at 30 hours for each week. The employee should be paid for 20 hours of overtime in the first week. Also, the FLSA expressly forbids employers from manipulating the regular rate to avoid paying overtime to employees. Thus it is unlawful for an employer to impose a fluctuating hourly rate that decreases as the number of hours worked – particularly those over 40 in a workweek – increases.

“The seminar that our employees attended last Saturday was ‘off-the-clock; so we don’t need to pay overtime.”

The FLSA requires employers to pay for any “hours worked,” which has a very broad meaning under the FLSA. In fact, “off-the-clock” cases have lately been some of the most prevalent FLSA cases filling the federal court dockets. This is because many employers do not realize that under certain circumstances they are required to compensate employees for time spent in training, work performed away from the employer’s premises, waiting time, traveling time, etc.

“We conducted a worker classification audit five years ago, so I’m sure we’re in compliance.” Your business is constantly changing and so is the law. In 2004, the DOL revised the regulations relating to the exemptions for executive, administrative, professional, computer professional, outside sales and highly compensated employees. Moreover, courts often disagree, and even change their minds, as to whether certain job duties bring a position within one of the statutory exemptions. Conducting regular audits ensures that your company is doing everything possible to comply with the law and, in

the worst case scenario, can be used in your defense if you are ever accused of willfully violating the FLSA.

Throughout the 1990s, the number of lawsuits filed under the FLSA hovered between 1,000 and 2,000 each year. By comparison, this number skyrocketed to approximately 4,400 in 2006.

These statistics should be especially alarming in light of the penalties available for violating the FLSA. The most common penalties are damages to employees in the form of injunctive relief, back pay, prejudgment interest, attorneys' fees, court costs and liquidated damages (sometimes called "double back pay") for willful violations. However, did you know that the FLSA allows claims to proceed against individuals such as corporate officers and, in some cases, supervisors who willfully violate the Act? Or that the government has the ability to prosecute individuals and fine them up to \$10,000 per violation, and that violators could face a prison sentence after a second conviction?

To help ease your mind, the above-discussed myths and misunderstandings are easily avoidable. Now that you are aware of some of the common myths about overtime, make sure that your company is not among the 70% that are not in compliance with the FLSA.

MONTHLY NEWSLETTER AND DEADLINE

This is your chapter newsletter. We welcome articles, news stories, reports, and opinions. If you have anything you would like to announce or contribute, please submit your information to the NVLSA Newsletter Editor, Juanita E. Singleton, at singleton_juanita@yahoo.com by the **March 26, 2010** for inclusion in the next issue of the newsletter.

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\$10.00 for ¼ page
\$15.00 for ½ page
\$25.00 for full page



CALENDAR OF EVENTS

January 1, 2010 – Happy New Year!

January 5, 2010 – NVLSA Membership Meeting - Tysons

January 15, 2010 – Deadline for registration for VALS Winter Board of Governors Meeting

January 23, 2010 – VALS 2012 Convention Planning Meeting (possible date) – please save the date!

February 2, 2010 – NVLSA Membership Meeting – Alexandria

February 5-6, 2010 – VALS Winter Board Meeting – Chesapeake, VA

March 2, 2010 – NVLSA Membership Meeting – Tysons

March 6, 2010 – NALS Certification Exam

April 6, 2010 – NVLSA Membership Meeting - Alexandria

April 29, - May 2, 2010 – VALS Annual Convention (Blacksburg, VA)

NVLSA OFFICERS FOR 2009-2011

President – Juanita E. Singleton
Vice President – Robin Wilson, PLS
Secretary – Robin Wilson, PLS
Treasurer – Cheryl Blythers, ALS
Governor – Lori Stewart, PP, PLS
Alternate Governors – All NVLSA Officers

NVLSA COMMITTEE CHAIRS FOR 2009-2011

Bylaws and Standing Rules – _Lori Stewart, PP, PLS
Chaplain – Cheryl Blythers, ALS
Certification – Lori Stewart, PP, PLS
Education – Juanita E. Singleton
Holiday Party/Charity – Myah Marshall
Member of the Year – Juanita E. Singleton
Membership – Robin Wilson, PLS
Newsletter – Juanita E. Singleton
Technology – Robin Wilson, PLS