Biden Administration Revokes Trump Era Liquidated Damages Limits

In another example of employment law changes under the Biden administration, the U.S. Department of Labor (DOL) announced last week that it would be revoking a Trump administration policy related to liquidated damages for wage law violations. Under the Fair Labor Standards Act, an employee could receive double the amount of pay actually lost as a result of the employer's violation. The Trump administration limited the DOL's use of liquidated damages in instances where the employer had clearly acted in bad faith or acted willfully.

The Biden DOL will now allow its regional offices more flexibility when deciding whether to pursue liquidated damages. The DOL will also allow a regional solicitor to approve a request for liquidated damages, a change from the Trump administration that had required approval from the Wage and Hour Division Administrator and Solicitor.

The Biden Administration's stance increases the risk of serious financial penalties for employers who violate wage laws. This increased risk is just one more reason why employers should be performing audits of their timekeeping and wage payment practices. Identifying compliance issues before the DOL becomes involved provides an opportunity to self-correct without the threat of additional damages and penalties.

If you have any questions about the new change or need help with a self-audit, please contact Rob Driscoll or your Reinhart attorney.

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