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Heads Up!
**PROACTIVE STRATEGIES TO AVOID
WAGE AND HOUR LITIGATION**

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FLSA

Fair Labor Standards Act of 1938

- Primary federal wage and hour law
- State companion wage and hour laws



FLSA

- Employees engaged in interstate commerce
- Employees of enterprises engaged in interstate commerce that have at least \$500,000 in annual revenue



FLSA

- Note: an enterprise may be more than one company
 - “Related...for a common business purpose”
 - “Unified operations” or “common control”



FLSA

- **Employee** – any individual employed by an employer
- **Employer** – includes any person ... acting in the interest of an employer in relation to an employee
- **Employ** – to suffer or permit to work



FLSA

Common exemptions – not covered

- Executives
- Administrators
- Professionals
- Computer professionals
- Independent contractors



FLSA

- Minimum wage
- Overtime compensation
- Recordkeeping
- Other issues – child labor, retaliation, tip credit and allocation, etc.



FLSA

Common FLSA issues

- Misclassification
- Off-the-clock violations
- Deductions/expense reimbursement
- Recordkeeping violations



FLSA

Why employers should avoid FLSA litigation

- Costs inherent in the collective action process
- Potential for significant liability
- The law and rules favor employees



FLSA

Avoiding FLSA litigation

- Review employee classifications
- Double-check overtime calculations
- Control your time clock and time records
- Accurately describe and record changes or corrections to time records
- Establish safe harbors and good faith
- Prohibit retaliation!



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Batter Up



THANK YOU, AND GO TWINS 2012!



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