

LEARNING EMPLOYMENT LAW IN THE MIDST OF LAYOFFS



According to the New York Times, Zynga, popular for its social games, is seeing the downside of the economy with job cuts in October 2012. With another dismal earnings report, the company is letting go about 5 percent of its work force, or 150 people. In times of layoffs, it is good for every employee to learn a little about employment law so as not to be cheated in pay or in benefits when putting in long hours just to be spit out when cash is not king with an employer. One area of employment law that affects everyone is the Fair Labor Standards Act (FLSA), a federal law to protect workers against unfair employment practices. As a federal law, FLSA preempts state laws, unless state laws are more beneficial to an employee. When people cannot find jobs after a layoff, they may take on independent contractor assignments. Know the difference between being an employee and an independent contractor when negotiating pay. The FLSA establishes standards and requirements for minimum wage and overtime. Under the FLSA, workers are classified as “exempt” or “nonexempt” to determine which FLSA provisions apply to them. If employees are not appropriately classified, the company may be subject to fines for violating FLSA, and unpaid overtime to employees. For nonexempt employees, all provisions of the FLSA apply. This means the worker must be paid minimum wage rate for first 40 hours worked in a workweek, and receive overtime rate of time and one-half of pay for hours worked over 40 hours in a workweek. Classifying employees is based on job duties, not job title or the way a worker is paid (hourly or salary). Job descriptions must reflect a worker’s actual responsibilities and education requirements. A company needs to pay overtime to nonexempt employees for all hours actually worked in excess of a normal work day or a normal work week, as required by United States federal and applicable state laws. A company cannot provide compensatory time off with pay to avoid payment of overtime. A normal full-time work day is eight (8) hours plus a half hour to one hour meal period. This meal period is unpaid and is not to be used for calculating overtime. A normal work week is five (5) consecutive work days for a total of forty (40) hours. Only actual hours worked count toward computing weekly overtime. Hours absent due to illness or injury, lateness, authorized time-off-without-pay, or unexcused absences are not credited as hours worked in overtime calculations. Make-up time will not be counted in the total number of hours worked, unless required by applicable state or federal law. During tough economic times, when many are losing their jobs, it is good to have some street smarts about employment laws so as not to be bullied by the organization looking for workers. If you’re looking for employment law attorney jobs, [click here](#).