According to the 2010 Fulbright report on litigation trends, the fastest growing area of litigation is wage and hour issues, up 18 percent in 2010 alone. This trend is expected to continue during 2011 and into 2012.

Why?
The U.S. Department of Labor estimates that close to 70 percent of employers routinely violate wage and hour regulations. Unfortunately, many do not realize it until they are sued. Recent legislation such as the Lilly Ledbetter Act increases liability for non-job/performance-related pay disparities as well as requirements for accurate record keeping.

Compliance requirements for companies of all sizes are growing more complex, and the potential costs of non-compliance are increasing rapidly.

Wage and hour issues are also one of the fast growing areas for class action lawsuits. Last year, the 10 largest private wage and hour settlements totaled nearly $364 million, as cited in Seyfarth Shaw’s 2010 Sixth Annual Workplace Class Action Litigation Report.

The bottom line for employers is that non-compliance with current legislation could result in litigation, fines, and/or penalties. These issues can become a costly hornet’s nest for employers who choose to ignore the growing risks.

So what can companies do to help limit their risk?
• **Do not assume you are immune.** Many pay-related fines and lawsuits do not arise out of malicious actions but from overlooked changes over time that caused an unrealized disparity.
• **Review your compensation practices.** A thorough look can help ensure your practices meet current regulations as well as provide an opportunity to correct any problems before they get costly.
• **Verify your record keeping.** Maintaining complete, updated, and secure records is an essential affirmative defense strategy should litigation arise.
• **Ensure the accuracy of time records.** Recording of work time must be a routine part of the administrative process. Small errors can turn into costly proceedings.
• **Establish policies and procedures.** Well-defined workplace policies should explain to employees how the pay process works and their responsibilities if they find any errors in pay.
• **Determine overtime accuracy.** Inaccurate overtime compensation is a major driver of both litigation and non-compliance penalties.

*Source: Press-Register (Mobile, AL)*

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Prepared by the Sports & Recreation Division of Wells Fargo Special Risks, Inc.