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Minimum Wage Hike Effective July 24, 2007

All employers should be aware that effective July 24, 2007, the federal minimum wage for non-exempt employees covered by the Wage and Hour Law will be \$5.85 per hour. (The minimum increases to \$6.55 per hour July 24, 2008 and to \$7.25 per hour effective July 24, 2009.)

Employers covered by this law are required to post and keep posted a notice that explains to their employees about the federal Law (formally, the Fair Labor Standards Act). A free copy of the federal minimum wage poster can be obtained from the U.S. Department of Labor at <http://www.dol.gov/esa/regs/compliance/posters/flsa.htm> The notice must be in a conspicuous place so employees can readily read it.

Remember that many states also have minimum wage laws. Covered employers must comply with both.

By the way, the tip credit provisions of the FLSA remain the same. An employer is still required to pay \$2.13 an hour in direct wages if that amount plus the tips received equals at the least the Federal minimum wage, provided the employer has informed the employee of the tip credit being taken, the employee retains all tips except to the extent they participate in a valid tip pooling arrangement, and the employee customarily and regularly receives more than \$30 a month in tips.

For those of who employ youth, be advised that the youth minimum wage also remains the same. Employees under 20 years of age may be paid \$4.25 per hour during their first 90

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consecutive calendar days of employment with an employer.
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Employers, Take Note: Loose Lips Can Still Sink Ships

On June 21, 2007, the Mississippi Supreme Court handed down an opinion holding that a supervisor's use of racial epithets in the workplace can constitute actionable intentional infliction of emotional distress under Mississippi law. *Jones v Fluor Daniel Services Corp.*, No. 2005-CA-00825-SCT (June 21, 2007). Specifically, the Supreme Court held that the following allegations by the plaintiff were sufficient to maintain a claim for intentional infliction of emotional distress: 1) that a supervisor had stated, "the monkeys could go to work or go to the rope," combined with 2) alleged segregation of black and Mexican employees, and 3) disparate treatment of black employees and Mexican employees. Further, the Supreme Court held that the supervisor's alleged statements could be attributable to the company as a whole because allegedly the supervisor also told the plaintiff "that someone in the main office had told him to make the statement." The opinion also found that disparate work assignments "could rise to the level of outrageous conduct. A jury could reasonably conclude that showing a preference for one race at the expense of another is outrageous conduct."

As a consequence of the Supreme Court's rulings, the case was sent back to the circuit court for a jury trial. The Jones case constitutes a significant expansion of Mississippi law with respect to the tort of intentional infliction of emotional distress.

If you have questions about the new minimum wage rule, other wage and hour issues, or the Supreme Court's rulings in the Jones case, contact your Butler Snow employment lawyer. A directory of our labor and employment group can be found on our website: www.butlersnow.com/practice/index.php.

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