

# AVOIDING LABOR PAIN UT CLE NONPROFIT ORGANIZATIONS INSTITUTE

January 24, 2020

Connie Cornell  
Cornell Smith Mierl Brutocao Burton, LLP  
[ccornell@cornellsmith.com](mailto:ccornell@cornellsmith.com)  
(512) 328-1540



## ISSUES UNDER THE FAIR LABOR STANDARDS ACT



# COMMON FMLA MISTAKES

**IT DOESN'T APPLY TO EMPLOYEES OF NONPROFITS.**

**X - FALSE**

## The FLSA – Does it apply?

### **TEST #1: ENTERPRISE COVERAGE**

- (1) Has at least 2 employees;
- (2) Has at least \$500,000 in annual sales or business done;
- (3) Hospitals, businesses providing medical or nursing care for residents, schools and preschools.

Certain nonprofit corporations engaged in eleemosynary, charitable activities that do not compete with private entrepreneurs, have been determined not be covered enterprises.

# The FLSA – Does it apply?

## TEST #2: INDIVIDUAL COVERAGE

- (1) Is engaged in the production of goods for commerce;
- (2) Is regularly involved in interstate commerce...
  - regularly traveling across state lines for work;
  - regularly using the mail / telephone for interstate communication, in obtaining or communicating information or in sending or receiving written reports or messages, or orders for goods or services, or plans or other documents across state lines

## COMMON FLSA MISTAKES

**ANY EMPLOYEE PAID A SALARY IS NOT ENTITLED TO OVERTIME.**

**X - FALSE**

Also available as part of the eCourse

[2020 Nonprofit Organizations eConference](#)

First appeared as part of the conference materials for the  
37<sup>th</sup> Annual Nonprofit Organizations Institute session

"Avoiding Labor Pains"