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Daily and Weekly Overtime in Oregon Changes Again for Workers in Mills, Factories, and Manufacturing Establishments

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In good news for employers, on March 9, 2017, in *Mazahua Reyes v. Portland Specialty Baking, LLC*, Multnomah County Circuit Judge Kathleen Dailey held that employees working in mills, factories, and manufacturing establishments are entitled only to the greater of daily or weekly overtime pay in a workweek, not both.

While this lawsuit has been pending, in December 2016, BOLI quietly changed its interpretation on daily and weekly overtime pay requirements for those workers employed in a “mill, factory, or manufacturing establishment.” In our alert, we explained that BOLI’s new rule required those employees working over 10 hours in a day to be paid both daily and weekly overtime. That new interpretation was a break with BOLI’s past practice of requiring employers to pay only the greater of the daily or weekly overtime in a workweek.

Judge Dailey’s opinion explained that BOLI’s new interpretation failed to give effect to the relationship between Oregon’s general overtime law and the particular daily overtime law for workers in mills, factories, and manufacturing establishments. Her opinion specifically states that the pre-December BOLI interpretation is the proper interpretation for calculating daily and weekly overtime requirements and dismissed the lawsuit’s claims seeking both daily and weekly overtime payments in the same workweek. While Judge Dailey’s decision will likely be appealed, at this point in time, employers are only required to pay “the greater” of daily or weekly overtime owed to employees.

Additionally, Senate Bill 984 is pending before the Oregon legislature, which would codify the “greater of the two” calculation method. However, what is still unclear is the scope of the definition of “mill, factory, or manufacturing establishment.” Affected employers should contact their state legislators and urge them to pass Senate Bill 984 and to clarify what constitutes a “manufacturing establishment.” We will keep you apprised of further developments as they unfold.