

[Date]

[Recipient Name]

[Recipient Title]

[Company Name]

[Address Line 1]

[Address Line 2]

Re: Legal Opinion Regarding "Primary Duty" and Dual Duties Exemption Status

Dear [Recipient Name],

You have requested a formal opinion regarding the exempt status of [Employee Name/Job Title] under the Fair Labor Standards Act (FLSA), specifically concerning the performance of "dual duties" consisting of both exempt and non-exempt tasks.

Factual Background

Based on our review of the job description and daily activities, the employee performs the following exempt tasks: [List Exempt Tasks]. Concurrently, the employee performs non-exempt tasks, including: [List Non-Exempt Tasks].

Legal Analysis of "Primary Duty"

Under 29 C.F.R. § 541.700, an employee's "primary duty" is the principal, main, or most important duty that the employee performs. The determination is based on the character of the job as a whole. While time spent on exempt work is a relevant factor (with a 50% threshold often used as a guideline), it is not the sole determination.

In cases of dual duties, the employee may still qualify for an exemption if they satisfy the following criteria:

- The relative importance of the exempt duties as compared with other types of duties;
- The amount of time spent performing exempt work;
- The employee's relative freedom from direct supervision; and
- The relationship between the employee's salary and the wages paid to other employees for the kind of non-exempt work performed by the employee.

Conclusion

It is our opinion that [Employee Name/Job Title] [qualifies/does not qualify] for the [Executive/Administrative/Professional] exemption. Despite the performance of non-exempt tasks, the employee's primary duty remains [Specific Exempt Function], which is critical to the business operations and requires the exercise of discretion and independent judgment.

Please note that this opinion is based on current federal regulations and may be subject to change if job responsibilities are altered.

Sincerely,

[Your Name]

[Your Title]

[Law Firm/Company Name]