

Excerpts from informal memos

A. Labor law

... Please also note that FLSA is a strong law: liquidated damages (2x) are statutory unless the defendant can show that the violation was not willful. Unlike many laws, the FLSA does not require that the plaintiff prove that the violation was intentional and the burden of proof is on the defendant to show that it was not. My impression from my reading is that most FLSA cases settle because it is difficult to defend against them, and the ones that go to court are mainly the one where there is an issue of applicability of the law to a specific category of workers or the plaintiff is seeking the liquidated damages even though the employer has agreed to pay the overtime. One instance was found where punitive damages were awarded in an FLSA case, however that case was not in the Fourth Circuit and the violation was egregious—the defendant was making employees live in a boxcar did not give adequate food based on the number of people in the boxcar. Maryland has a stronger state law providing 3x damages, but Virginia has no law, so in Virginia only the FLSA applies ...

B. Public contract law

... Authorities for the PTAG are noted in attached. I am concerned about PTO's statement on their website, which provides background information about the PTAG, as follows: [quote from PTO website stating that USPTO has statutory authority to make purchases and enter into contracts without regard to FAR Parts 6 and 15] ...

Although 35 USC 2 does exempt PTO from the requirements of the FPAS and the CICA, I do not see language in the code exempting PTO from FAR 6 and 15.

Concerning prior bid protest rulings addressing PTAG, I have reviewed GAO rulings involving USPTO since March 2003, and I have not found references to PTAG. Nearly all of the GAO decisions related to USPTO solicitations have been prior to 2003 ...

C. Administrative management of medical facility

... Please find enclosed copies of the current menus from Dietary. You will see that there are seven sets, one for each day of the week. At the end of the week, the cycle starts over with the Monday menu.

Every four-six weeks Dietary makes changes and issues a new set of menus. Dietary has offered to provide us these new menu sets each time the menus are changed. My suggestion is to ask Dietary to provide two copies of the menus on a regular basis, one for each nurses station. Nurses and secretaries could then make copies of any menu at any time for use by a patient, taking care not to use the master copy.

By keeping menu sets in the nurses station, we will have easy access to current menus at all times. Although we do not frequently need blank menus, we sometimes do need them, and it will be convenient to have them on the floor. In order to keep our menu sets complete, it will be necessary that the master copies are not used, and that everyone make copies as needed from the master set.

My recommendation is that the secretaries put together binders for the menus and disseminate information about the menu sets and how to use them ...

