

1976 WL 30696 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

March 3, 1976

***1 RE: John Shaw and Samuel Owens vs Anderson County Alcohol and Drug Abuse Commission**

Mr. J. Calhoun Pruitt, Jr.
Attorney at Law, P.A.
108 North Murray Avenue
Anderson, South Carolina 29621

Dear Mr. Pruitt:

Mr. McLeod has referred your correspondence of January 23, 1976 and February 27, 1976 to me for reply.

After reviewing the basic requirements of the Fair Labor Standards Act, it is my opinion that the Act takes a single work week as its standard time permits neither averaging of hours or two or more weeks compensatory time agreements between employer and employee to make up for overtime hours worked. Each work week must stand along with the employee receiving overtime pay for hours worked in excess to 40 and rates of not less than time and a half their regular rates of pay.

In my opinion, the compensatory time scheme set out in your correspondence would be prohibited by the act and the employees entitled to back pay and actual hours of overtime for which they were not compensated. The Act, of course, does provide exemptions from overtime requirements for certain employees designated as executives, administrators, and professionals, etc. This might be important in the case of John Shaw who hold the supervisory position in this case.

Mr. Robert Ginn who is Assistant Area Director for the U.S. Department of Labor, Wage and Hour Division, has been most helpful to me in providing information regarding the Fair Labor Standards Act. I would appreciate you contacting Mr. Ginn whom I am sure could provide you with material directly on point. If you feel that additional discussion and information is desired, please do not hesitate to call on me. Mr. Ginn's address has been provided.

Mr. Robert Ginn

Assistant Area Director

U.S. Department of Labor

Wage and Hour Division

Room 105C

Liberty House

2001 Assembly Street

Columbia, SC 29201

Very truly yours,

H. Brent Fortson
Assistant Attorney General

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