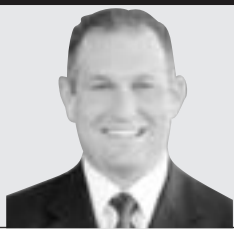


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ATTY. RICHARD WILNER

**SUCCESS IN TROUBLED TIMES**

**Hopes and realities**

to you because it is their “magic”, run out of their office; don’t walk.

To not hire someone to pursue relief that is unavailable at this time. To “open up a file” to pursue a non-existent CIR related application is a waste of your time and hard-earned money. A credible lawyer will tell you that. To be cliché, you get what you pay for. And, if you are trying to save money on one of the most important decisions of your life to hire a paralegal that is working illegally, you will suffer on account of it. For example, several people have hired us who have all been victimized by the same paralegal who works at a local immigration firm. And, this paralegal/attorney in the Philippines has been reported to the Attorney General’s office on account of it.

If you are TNT or an employer of TNT’s, of course, you should be concerned. Your concern, however, should not result in your going into hiding because if it does, chances are you will not achieve the benefit you have hoped for all this time. Your concern should result in your trying to deal with the issues head-on. Find credible solutions to your problems. Doing the same thing undetected is not a solution.

To that end, sometimes it helps to know that people are succeeding in obtaining benefits even in they very complicated cases that we handle. For example, in the recent months, some of our successes include the following: obtaining lawful permanent residence for UFC Middleweight Champion Anderson Silva; obtaining a P-1 non-immigrant visa for Cris Cyborg—the

baddest woman in mixed martial arts—in under 48 hours; getting all the visas approved (again) for Eat Bulaga! and their crew; obtaining citizenship for an individual with frequent travel and therefore residency issues; assisting a foreign national in removal proceedings with vacating the conviction that caused them to be placed into removal proceedings to begin with.

While these cases virtually cover the spectrum of immigration law, one thing remains consistent: our advice, strategy and success is unmatched by anyone or any firm that claims to practice immigration law. Our lawyers are graduates of the most prestigious Universities in the world and are hotly sought after not only as lawyers, but speakers and chairs of bar associations. Along those lines, our lawyers are dedicated public servants, contributing countless volunteer hours to worthy causes and organizations. The “secret” to our success is simple: honest hard-work coupled with knowledge gained from education and experience.

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Richard M. Wilner is a principal of the firm Wilner & O’Reilly.

Please contact Richard Wilner at (562) 207-6789 or 1-877-7MABUHAY. Wilner & O’Reilly, APLC, is located at 17777 Center Court Drive, Suite 200 Cerritos, CA 90703. Visit [www.wilneroreilly.com](http://www.wilneroreilly.com).

(Advertising Supplement)

**PROTECTING EMPLOYEE & CONSUMER RIGHTS**



ATTY. CONRADO JOE SAYAS

**Q** I am a Store Manager for a customer-service oriented business. I work 10- to 12-hours per day six days a week. I am paid a fixed salary every month. Since I am a Store Manager, my employers say I am exempt from overtime pay. I follow your column and know from your previous articles that the job title does not necessarily determine whether an employee is exempt or not. As Store Manager, I supervise some employees but I cannot hire or fire employees. I also spend a majority of my time doing the same things that these employees are doing – attending to customers and the cash register. Am I really exempt and not entitled to overtime?

**A:** You are correct in saying that an employee’s job title does not necessarily determine whether the employee is exempt from overtime pay. California law strictly applies the “executive exemption” or “managerial exemption” to employees. This means the laws are generally interpreted in favor of protecting employees.

One of the most important factors in determining executive exemption focuses on the employee’s actual duties. “Managers” are expected to perform “managerial

**Are ‘managers’ entitled to overtime pay?**

duties.” These duties include managing the business, hiring, firing, and disciplining employees, deciding on employee salaries and wages, and creating work policies and procedures. Simply issuing memos on work policies and procedures when these policies actually come from upper management is not enough.

Additional managerial or executive duties include:

- a) planning the work;
- b) determining the techniques to be used (to perform the work);
- c) apportioning work among the workers;
- d) directing work;
- e) appraising work and efficiency for the purpose of recommending promotions or other changes in employee status;
- f) handling workers’ complaints and grievances and disciplining them when necessary;
- g) controlling the flow and distribution of materials or merchandise and supplies; and
- h) providing for the safety of the workers and the employer’s property.

An employee, to be truly exempt from overtime, must not only perform these managerial duties. These duties must take up more than 50% of their work time. If, for example, managers work 10-hour days, they must spend more than 5 hours per day on managerial work.

Other factors considered when

determining executive exemption include:

- 1) the manager earns at least twice the state’s minimum wage for full-time employment;
- 2) the manager regularly directs the work of 2 or more subordinates;
- 3) the manager regularly and customarily exercise discretionary powers.

It is important to know whether an employee has been correctly classified as a true manager or not. In today’s economy, employees need to determine if their employers are paying them correctly. It may not hurt if an employee is underpaid for one day. But spread across a period of four years, that amount is ultimately significant for the working person.

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C. Joe Sayas, Jr., Esq. is an experienced trial attorney who has successfully obtained significant results, including several million dollar recoveries for consumers against insurance companies and big business. He is a member of the Million Dollar-Advocates Forum—a prestigious group of trial lawyers whose membership is limited to those who have demonstrated exceptional skill, experience and excellence in advocacy. He has been featured in the cover of Los Angeles Daily Journal’s Verdicts and Settlements for his professional accomplishments and recipient of numerous awards from community and media organizations. His litigation practice concentrates in the following areas: serious personal injuries, wrongful death, insurance claims, unfair business practices, wage and hour (overtime) litigation. You can visit his website at [www.joesayaslaw.com](http://www.joesayaslaw.com) or contact his office by telephone at (818) 291-0088.

(Advertising Supplement)

**Factors that are considered in an award of spousal support**

**BARRISTER’S CORNER**



ATTY. KENNETH URSUA REYES

and circumstances of the particular case. In determining spousal support, the court considers numerous factors, set forth in Family Code Sec. 4320. They include: 1) The extent to which the earning capacity of each party is sufficient to maintain the standard of living established during the marriage, 2) The extent to which the supported party contributed to the attainment of an education, training, a career position, or a license by the supporting party, 3) The ability of the supporting party to pay spousal support, taking into account the supporting party’s earning capacity, earned and unearned income, assets, and standard of living, 4) The needs of each party based on the standard of living established during the marriage, 5) The obligations and assets, including the separate property, of each party, 6)

*Although the use of standard guidelines based on income is encouraged in the award of temporary support, such guidelines cannot be used in awarding permanent spousal support.*

other case may call for support for an extended period of time, perhaps until death of the supported spouse, the purpose for which to provide assistance to one who cannot support himself.

The two situations mentioned hereinabove are extreme cases, on opposite ends of the spectrum. Quite obviously, the facts and circumstances in a particular case may be such which call for some amount of support for some period of time, though not until death of the supported spouse. For example, the court may order support for that period of time required for the supported spouse to obtain or complete an education, to allow the supported spouse to take care of the children until they reach an age where a return to employment would be more feasible, or to become self-supporting within a reasonable time.

Although the use of standard guidelines based on income is encouraged in the award of temporary support, such guidelines cannot be used in awarding permanent spousal support. As indicated hereinabove, the award of support is in large part based on the facts

The duration of the marriage, 7) The ability of the supported party to engage in gainful employment without unduly interfering with the interests of dependent children in the custody of the party, and 8) The age and health of the parties.

The factors set forth hereinabove are only several of the many factors the court will consider in deciding the issue of spousal support. In that the amount and duration of an award is largely based on the facts and circumstances of the case, it is advised that one who is requesting support, or is opposing a request for support, obtain experienced counsel, who will be able to present the facts and circumstances in the best light possible.

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Atty. Kenneth Ursua Reyes was President of the Philippine American Bar Association. He is a member of both the Family law section and Immigration law section of the Los Angeles County Bar Association. He has extensive CPA experience prior to law practice. LAW OFFICES OF KENNETH REYES, P.C. is located at 3699 Wilshire Blvd., Suite 700, Los Angeles, CA, 90010. Tel. (213) 388-1611 or e-mail [kureyeslaw@aol.com](mailto:kureyeslaw@aol.com). Visit website [Kenreyeslaw.com](http://Kenreyeslaw.com).

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