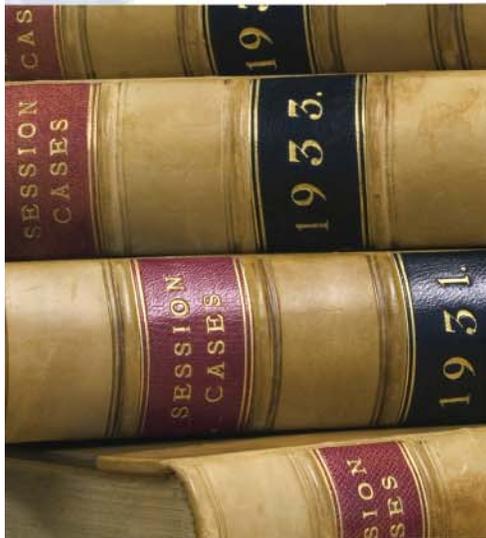




SOL

Office of the Solicitor
U.S. Department of Labor



*Working for
America's
Workforce.*

The Legal Team at Labor

For almost a hundred years, the Department of Labor has been advancing the Nation's economic vitality by safeguarding the rights of America's workforce while recognizing the dynamic nature of business and industry. Within the Department, the Office of the Solicitor (SOL) plays a pivotal role in supporting this mission by providing a wide range of essential legal services to the Secretary of Labor and the Department's many agencies.

SOL has over 425 attorneys across the country who address the many complex legal issues that arise in administering and enforcing more than 180 Federal labor laws and their implementing regulations. Ultimately, SOL serves about 125 million workers engaged in workplace activities covered by these laws.

SOL is unusual among the Federal government's legal offices because it has independent litigating authority under numerous Federal statutes. As a result, SOL attorneys regularly appear in courts throughout the country pursuing enforcement actions against employers and others who violate labor laws. Outside the courtroom, SOL is regularly called on to provide advice on varied and complex legal issues as well as to review and guide the development of regulations and interpretative materials.

In providing these legal services, SOL is especially vigilant about championing the fair treatment of America's least fortunate and most vulnerable workers and holding to account the most negligent employers. As a result, whether in a friend-of-the-court brief submitted to the Supreme Court, a civil action

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in the Federal district courts, or proceedings before an administrative tribunal, SOL upholds the ideals of justice and handles precedent-setting legal matters on behalf of the Department. In pursuing the forceful and fair application of the Nation's labor laws, SOL regularly seeks to ensure equal treatment in hiring and employment practices, the payment of wages and benefits rightfully earned, safe working conditions, standards of democracy and fiscal responsibility in labor organizations, and safeguards for the income security of retired workers.

Providing a Robust Enforcement Capability

Consistent with the breadth of its responsibilities, SOL is one of the most prominent legal enforcement agencies in the Federal government. Heading up the operation is the Solicitor of Labor, the Department's third highest ranking official and its chief legal officer. All SOL attorneys report to the Solicitor, rather than to client program agency heads, as is the practice in many executive branch departments. This independence gives SOL lawyers a uniquely strong voice in the handling of legal matters.

The SOL National Office includes eight divisions that provide program advice and litigation services to Department agencies. About half of SOL's attorneys are located in Regional and Branch Offices across the country and are regularly engaged with litigation in Federal district courts and before administrative law judges.

There can be no doubt that the Department would not be able to fully carry out its mission without the robust enforcement capability of SOL.

SOL Worked with EBSA to Recover Pension Funds for Enron's Workers

Shortly after revelations about Enron Corporation's irregular accounting practices started to emerge in 2001, the Department's Employee Benefits Security Administration (EBSA) and SOL launched an active investigation into the company's management of worker pension funds. As of early 2008, the Department's litigation and related private litigation had recovered in excess of \$220.8 million for workers' pension plans. Almost immediately after the investigation's inception, SOL obtained an agreement removing the Enron plan fiduciaries and replacing them with an independent professional charged with the responsibility to zealously protect the workers' interest in their retirement funds. Subsequently, SOL filed a lawsuit that resulted in substantial monetary and injunctive relief against all defendants, including

plan fiduciaries and members of Enron's board of directors. In addition, the Department has obtained injunctions limiting or barring the defendants from acting as service providers or fiduciaries to other Employee Retirement Income Security Act (ERISA)-covered plans. Every step of the way, SOL has worked closely with and on behalf of the EBSA.





SOL Supported OSHA Investigation of Fatal Explosion at Texas Refinery; BP Agreed to Largest Fine in OSHA History

In March 2005, a major explosion occurred at BP Products' Texas City refinery, killing 15 workers and seriously injuring over 170 others. In the investigation of the catastrophe, SOL worked in close coordination with the Occupational Safety and Health Administration (OSHA) to secure a settlement that included over \$21 million in penalties—the largest fine in OSHA history. Further, the agreement called for comprehensive abatement of numerous egregious and willful violations. For instance, BP was required to address all cited hazards and to enlist an expert to conduct a comprehensive, refinery-wide audit and analysis of the company's process-safety management systems. SOL attorneys were critical members of the investigation team, negotiating site agreements and evidence collection protocols, reviewing evidence to determine violations, and participating in negotiation of the settlement agreement itself.

Responsive to Department Needs

SOL emphasizes operational flexibility to ensure that it can quickly respond to the varied needs of the Secretary and the agencies of the Department. For instance, working in close coordination with Department agencies enables SOL to carefully target legal support and to anticipate changes in program emphases and the emergence of new initiatives. As a result, SOL can more effectively shift resources across its divisions as necessary to meet evolving program needs.

These close working relationships enable SOL to align its strategic and budget planning priorities with agency and Department goals.

Focused on Quality and Results

SOL is recognized across the Department for providing high-quality and timely legal counsel. This reputation is a testament to the expertise and dedication of SOL's attorneys and support staff. SOL's focus on strategic planning and performance-based management ensures that the organization is committed to

results. Key operational decisions are made in the context of SOL's five year strategic plan, which is reviewed regularly to ensure that goals align with Departmental priorities.

SOL is one of the most prominent legal enforcement agencies in the Federal government.

SOL's management practices are exemplary. In a review of SOL's performance-based management, the Office of Management and Budget (OMB) found SOL to be a well-managed operation that is effectively tracking progress on its "ambitious" mix of outcome and efficiency goals—with most of its annual targets being met or exceeded. As a result, SOL is recognized as contributing to the Department's across-the-board high OMB ratings on supporting government-wide performance-based management initiatives. SOL also has effectively aligned its human resource policies with its strategic planning and has implemented leadership training and succession planning.

Highly Regarded Legal Expertise

Despite facing increasingly complex cases amidst the ever-changing characteristics of the Nation's workplaces and

SOL Supported DOL Wal-Mart Negotiations: Workers Received \$41 Million in Back Wages and Interest

SOL assisted the Wage and Hour Division (WHD) of the Department's Employment Standards Administration in securing a consent judgment by which Wal-Mart Stores agreed to pay \$41 million in overtime back wages and interest to 88,194 of its employees across the country. SOL actively participated in negotiations with Wal-Mart and provided ongoing legal representation to WHD. In addition, the judgment enjoined Wal-Mart from further violations in computing overtime wages. This judgment—the largest recovery ever obtained by WHD against a private employer—was issued in January 2007 following 15 months of negotiations with the company regarding the findings of a self-audit Wal-Mart had conducted of its nationwide pay practices.



SOL Involved Behind the Scenes in Cases Before the Supreme Court

The Solicitor General of the United States (SG) frequently requests SOL's review on important points of labor law raised by cases before the Supreme Court. SOL works closely with the SG's Office to draft persuasive briefs that vindicate the Department's legal and policy goals. For example:

- In *IBP v. Alvarez*, the SG and SOL argued that workers at meat-and-poultry processing plants must be paid for time spent donning and doffing protective equipment as well as for associated walking time. SOL contended that the case presented fundamental questions of statutory interpretation concerning the compensability of work under the Fair Labor Standards Act (FLSA). The Court ruled unanimously in favor of the workers.
- In *Long Island Care at Home v. Coke*, the SG and SOL defended against a challenge to the Department's FLSA regulations regarding payment for work related to providing "companionship services." The Court was unanimous in finding that DOL's interpretation of its own regulations is entitled to the highest level of judicial deference.
- In *LaRue v. DeWolff*, the SG and SOL argued that a single participant in an Employee Retirement Income Security Act (ERISA)-covered 401(k) plan could assert a claim for losses to the plan resulting from an alleged fiduciary breach where any recovery would be credited to the participant's individual account within the plan. The Court ruled unanimously that an individual participant's assertion of such a claim is authorized under the Act, reversing the lower court's opinion.



workforce, SOL continues to provide high-quality legal services across the Department. And in so doing, it continues to build on a well-established reputation for top-notch expertise and dedication to working hard for America's workers.

SOL's Strategy for Success

SOL's well-established strategy for success is guided by the following objectives, which are aligned to support the goals of the Department and client agencies:

1. Pursue the forceful and fair application of the Nation's labor laws.
2. Inform and guide the development of regulations that will safeguard the rights of America's workforce.
3. Provide sound legal advice to the Secretary of Labor and to agencies across the Department.

SOL Assists in Providing Compensation to Department of Energy Employees and Contractors

The Department of Labor is the lead agency administering a program compensating Department of Energy claimants for illnesses caused by exposures to toxic substances dating back to the Manhattan Project of the 1940s. Since Congress enacted the Energy Employees' Occupational Illness Compensation Program Act (EEOICPA) in 2000, SOL has worked closely with the Office of Workers' Compensation Programs (OWCP) to provide crucial regulatory development support and other legal services necessary to create and operate an entirely new benefit program. When the Department's responsibilities under EEOICPA were expanded in 2004, SOL assisted OWCP in creating procedures that allowed OWCP to pay over \$55 million to deserving claimants. Since the inception of the program, affected workers and their survivors have been awarded approximately \$4 billion in total EEOICPA compensation and medical benefits.

U.S. Department of Labor Office of the Solicitor

Major Areas Addressed by SOL Legal Services

SOL provides the legal services that are essential to enforcement programs under such important laws as the:

- Fair Labor Standards Act
- Occupational Safety and Health Act
- Federal Mine Safety and Health Act
- Employee Retirement Income Security Act
- Executive Order 11246 (employment discrimination)
- Labor-Management Reporting and Disclosure Act

SOL also provides legal advice for the administration of important programs under many statutes, including the:

- Uniformed Services Employment and Reemployment Rights Act
- Black Lung Benefits Act
- Energy Employees Occupational Illness Compensation Program Act



DOL Mission Statement

The Department of Labor (DOL) fosters and promotes the welfare of job seekers, wage earners, and retirees of the United States by improving their working conditions, advancing their opportunities for profitable employment, protecting their healthcare and retirement benefits, helping employers find workers, strengthening collective bargaining, and tracking changes in employment, prices, and other national economic measurements.

SOL Mission Statement

The Office of the Solicitor (SOL) fulfills its mission to meet the legal service demands of the entire Department of Labor by representing the Secretary and the client agencies in all necessary litigation, including both enforcement actions and defensive litigation, and in alternative dispute resolution activities; by assisting in the development of regulations, standards, and legislative proposals; and by providing legal opinions and advice concerning all the Department's activities.



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