

SMITH ANDERSON

Kimberly J. Korando
Smith, Anderson, Blount, Dorsett, Mitchell & Jernigan, L.L.P.
Raleigh, North Carolina
919.821.6671
kkorando@smithlaw.com

FLSA PRIMARY DUTY/DISCRETION AND INDEPENDENT JUDGMENT WORKSHEET

Primary Duty	
	Answer
What is the principal, main, major or most important duty of the job focusing on the character of the job as a whole?	
1) What is the relative importance of the duties believed to be exempt as compared to other types of duties?	
2) How much time is spent on the duties believed to be exempt?	
3) What is the employee's relative freedom from direct supervision?	

© Copyright 2010 Smith, Anderson, Blount, Dorsett, Mitchell & Jernigan, L.L.P.

SMITH, ANDERSON, BLOUNT, DORSETT, MITCHELL & JERNIGAN, L.L.P.
2500 WACHOVIA CAPITOL CENTER, RALEIGH, NORTH CAROLINA 27601

Primary Duty	
	Answer
4) What is the relationship of the employee's salary compared to wages paid to other employees for the kind of non-exempt work performed by the employee?	

Discretion and independent judgment in matters of significance

	Yes/No	Examples – Provide most significant examples along with amount of time spent in such activities
<p>Does the employee’s work involve the comparison and evaluation of possible courses of conduct and acting or making a decision or recommendation after various possibilities have been considered? What immediate direction or supervision is given to the employee in these matters?</p>		
<p>Does employee use skill in applying well-established techniques, procedures or specific standards described in manuals or other sources?</p>		
<p>a) Do the manuals, guidelines or established procedures contain highly technical, scientific or complex matters that can be understood or interpreted only by those with advanced or specialized knowledge or skills?</p>		
<p>b) Are the manuals, guidelines or established procedures being used for guidance in addressing difficult or novel circumstances?</p>		

Discretion and independent judgment in matters of significance

	Yes/No	Examples – Provide most significant examples along with amount of time spent in such activities
Does the work include clerical or secretarial work, recording or tabulating data, or performing other mechanical, repetitive, recurrent or routine work?		
Does employee have some leeway in the performance of the work but only within closely prescribed limits?		
Does the work involve the use of skills and technical abilities in gathering factual information, applying known standards or prescribed procedures, determining which procedures to follow or determining whether prescribed standards or criteria are met?		
Does employee have the authority to formulate, affect, interpret or implement management policies or operating practices?		

Discretion and independent judgment in matters of significance

	Yes/No	Examples – Provide most significant examples along with amount of time spent in such activities
Does employee carry out major assignments in conducting the operations of the business?		
Does employee perform work that affects the business operations to a substantial degree?		
Does employee have authority to commit the employer in matters that have significant financial impact?		
Does employee have authority to waive or deviate from established policies and procedures without prior approval?		
Does employee have authority to negotiate and bind the company on significant matters?		
Does employee provide consultation or expert advice to management?		

Discretion and independent judgment in matters of significance

	Yes/No	Examples – Provide most significant examples along with amount of time spent in such activities
Is employee involved in planning short- or long-term business objectives?		
Does employee investigate and resolve matters of significance on behalf of management?		
Does employee represent the company in handling complaints, arbitrating disputes or resolving grievances?		