

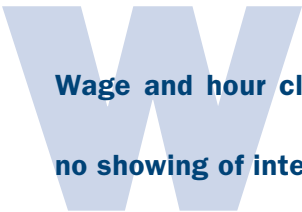
Wage and Hour

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Preventive Strategies and
Positive Solutions for the Workplace®



ALL WE DO IS
WORK.





Wage and hour claims, which generally require no showing of intent and can result in enormous damages awards, are filed in federal court more frequently than any other type of employment law class or collective action.

Counseling clients about wage and hour issues, performing wage and hour compliance reviews, and defending related litigation and government agency investigations have been three of our firm's core services for over 55 years. With offices spread across the country, we offer our clients a network of attorneys with extensive experience and knowledge of state and federal wage and hour laws.

A Preventive Approach: Jackson Lewis' Compliance Review Capabilities. When a wage and hour violation affects many employees over an extended period of time, it can give rise to substantial liability, even if the employer acted in good faith. We believe it is important to address potential wage and hour issues before plaintiffs bring a lawsuit or the government begins an investigation.

A key aspect of our practice is working with employers to develop and execute an overall strategy with long-term solutions to wage and hour issues. In other words, we do not just respond to complaints filed in court; we help clients reduce the risk that they will have to defend their actions in the first place. Our attorneys assist clients in reviewing company policies and practices and then pointing out areas of noncompliance and making suggestions for how to come

into compliance in a way that fits the client's operational needs and minimizes the risk of subsequent litigation or government investigation. Some of the areas we focus on include:

- Classifying employees as exempt or non-exempt from overtime, including examining job duties as well as compensation practices such as deductions from wages;
- Classifying workers as independent contractors or employees;
- Proper compensation for all hours worked by non-exempt employees, including activities at the start and end of the workday and tasks performed away from the workplace;
- Properly calculating overtime, including consideration of all required compensation in the regular rate and the allocation of compensation items to the proper workweeks;
- Compliance with prevailing wage and fringe benefits requirements on government contracts;
- Proper treatment of meal and rest periods;
- Whether an employer uses the fluctuating workweek correctly;
- Compliance with child labor laws;
- Timekeeping procedures; and
- Recordkeeping.

Training Capabilities. Wage and hour compliance depends on regular training to ensure that the individuals responsible for overseeing hourly workers, as well as the hourly workers themselves, follow their employers' policies. Organizations including SHRM, ACC, PLI, and the American Conference Institute frequently call upon Jackson Lewis to educate employers about wage and hour issues. In addition to customized, in-person training, Jackson Lewis offers online training through our strategic partnerships.

Using Technology to Reduce Wage and Hour Risks. We routinely assist employers in spotting ways that their time clocks and other timekeeping practices may be contributing to potential wage and hour violations, as well as in using such technology as computerized timekeeping and schedule

management to facilitate compliance. The first key to a successful compliance strategy is ensuring awareness of the applicable wage and hour rules. The next key is devising systems for tracking employee time accurately and translating those time entries into compliant pay practices and records. We have a team of attorneys skilled in statistical analysis who can assist clients with both aspects of this approach through, among other things, sophisticated audits of employers' compensation systems. In addition, we frequently work with employers' legal, operations, human resources, payroll, and information systems staff to develop solutions that enhance compliance and minimize risks.

Defending Wage and Hour Class Actions. Jackson Lewis' Wage and Hour Practice Group includes prominent wage and hour litigators ready to represent our clients in class or collective actions brought by private parties, as well as investigations by federal and state Departments of Labor. Because we litigate, on a daily basis, wage and hour cases across the country on behalf of employers in various industries, we are consistently at the forefront of emerging issues in FLSA and state wage and hour law. While most of these cases focus on whether employees have been classified properly as "exempt" from overtime pay requirements or whether non-exempt employees received pay and overtime for all hours worked, we also handle class actions involving a broad range of other wage and hour issues, such as paycheck requirements, bonus calculations, vacation pay, uniforms and dress codes, time keeping, and waiting time penalties. Jackson Lewis also is at the forefront of advising and defending hospitality industry clients with respect to the regulations surrounding the wages of tipped employees. In many cases, our clients are employers with nationwide or multi-state operations.

Our basic approach in defending employers in wage and hour class actions may be briefly summarized as follows: a vigorous and focused defense coupled with lean staffing by experienced

class action attorneys. We try to provide realistic assessments of liability and damages as early as possible in the litigation, and we work to develop strategies that make business sense, recognizing the implications for the business operations going forward.

We have helped our clients defeat attempts to expand individual or multiple plaintiffs' efforts into massive class or collective actions in a number of cases and prevail on the merits of a multitude of such actions. Some of our recent victories on behalf of firm clients include:

- Defeating conditional certification in a nationwide putative collective action involving a major shoe retailer.
- Obtaining summary judgment in favor of pharmaceutical company regarding exempt status of sales representatives.
- Securing enforcement of arbitration agreement with class action waiver, requiring two named plaintiffs in putative class and collective action to arbitrate their claims on an individual basis.
- Obtaining summary judgment dismissing FLSA claims under the motor carrier exemption in a nationwide class action regarding overtime pay for service technicians.
- Limiting putative class to one hotel location despite request to seek a nationwide class in collective action against a large upscale hotel chain. Court subsequently granted summary judgment to defendant, dismissing hotel sales managers' claims that they were improperly classified.
- Defeating class certification under wage and hour laws of 17 states. The U.S. Court of Appeals for the Second Circuit upheld the decision.
- Defeating conditional certification in a collective action brought by almost 1,300 plaintiffs and opt-in plaintiffs against a multi-state poultry processing company.
- Defeating certification of a class consisting of all restaurant assistant managers employed by defendant in California.

Contact Jackson Lewis. To learn more about our services, please visit us online at jacksonlewis.com.



About Jackson Lewis P.C.

With offices in major locations from coast to coast, Jackson Lewis provides creative and strategic solutions to employers in every aspect of workplace law. Recognized as the **2014 Law Firm of the Year** in the category of Litigation – Labor & Employment, and ranked in the First Tier nationally in the categories of Employment and Labor Law on behalf of Management in *U.S. News – Best Lawyers® “Best Law Firms,”* our firm has one of the most active employment litigation practices in the U.S.

All we do is work. Workplace law.



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