

WAGE & HOUR LAW: THE MOST DANGEROUS GAME FOR EMPLOYERS

Disputes involving wage and hour law can be very costly to employers. There are several factors that make these issues so dangerous to employers.

Wage and hour disputes are collective actions (not class actions) and are easier for employees to join. If the collective certification is approved the employer must provide the names and contact information of other similar employees.

Automatic attorneys' fees apply. When the plaintiff wins, the employer will have to pay the attorney fees on both sides.

There is no mitigation in wage and hour law and damages are doubled. The burden of proof is on the employers to show that the employee is not entitled to double damages. If the violation pertains to minimum wage, damages are tripled.

Wage and hour law is less intuitive than other areas of law, like discrimination. You must know the law.

The burden of proof falls on the shoulders of the employer to ensure accurate time keeping.

A few quick tips:

Pay non-exempt employees at least minimum wage for hours up to 40 and time and half for time worked over 40 (does not apply to independent contractors).

Remember that there are times when you must pay overtime to salaried workers. Is the job truly exempt? Paying a salary does not automatically make it exempt. Exempt employees must be either executive, administrative or professional.

Pay bonuses in percentage rather than flat dollar to ensure the bonus would include overtime.

Require that employees take their lunch breaks, clocking in and out appropriately. And if they don't, you have to pay them.

To put some of the burden of proof back on the employee, have them sign a disclaimer that attests to the accuracy of their recorded time.

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