

Wage and Hour Compliance and Audits

It is crucial for employers to ensure that their wage and hour practices and payroll functions are compliant with the law. Employers must ensure compliance with numerous wage and hour laws at the federal, state and, increasingly, the county and municipal levels. Wage and hour litigation, particularly class action lawsuits, have exploded over the past several years.

Additionally, government agencies are aggressively enforcing wage and hour laws. Laner Muchin attorneys, many of whom have a concentrated wage and hour practice, perform comprehensive wage and hour compliance audits that cover a broad range of issues.

The central focus of our audits is to identify issues that could potentially result in liability, and then work with our clients to eliminate those issues. As business advisors to our clients, we conduct the entire audit process with a practical, hands-on approach, tailoring our advice to the business needs and realities of our clients.

Experience

Below are representative samples of the types of services we provide when performing wage and hour compliance audits for our clients:

- ✓ Reviewing overtime exemption classifications of employees to determine if the client has misclassified any actual non-exempt employees as exempt, which can result in overtime liability. We also determine if any employees the client is classifying as non-exempt can be classified as exempt in accordance with the law.
- ✓ Analyzing payroll, time-keeping and other employment practices to assess potential liability under overtime laws. In this area, we determine whether the client is paying overtime compensation properly and at the correct rate. We also dig deep to uncover practices that could result in liability under an “off the clock” overtime claim, e.g., non-exempt employees working on the plant floor before they clock in, or non-exempt employees performing work on an electronic communication device off hours, without

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being paid for the work.

- ✓ Ensuring that our clients are in compliance with the minimum wage laws, a measure that has become especially important with the recent rise in minimum wage laws at the county and municipal levels. Companies that operate in multiple jurisdictions and/or have employees and fleets that perform work across broad geographical areas must take care to ensure that their employees are being paid the applicable minimum wage .

Analyzing bonus plans, commission structures and other components of the total compensation paid to employees. These pay items can be hotly-contested at the termination of employment, and they can also have a significant impact on the payment of overtime compensation in certain instances. We review bonus plans and commission agreements in detail to confirm that they comply with the law, but also that they meet the client's business goals.

Reviewing the payment of vacation time, personal leave and sick leave, including the requirement, if any, to pay out earned, unused paid time off at the termination of employment. The payment of vacation time can be highly nuanced under state law, and there has been a recent wave of paid sick leave laws enacted by states, counties and municipalities. We thoroughly review our clients' paid time off practices and policies to ensure compliance with these laws.

- ✓ Working with our clients to determine whether individuals with whom the clients do business should be classified as "independent contractors" or "employees." A business can incur significant liability if it misclassifies "employees" as "independent contractors."

Analyzing all deductions taken from employees' wages, e.g., deductions taken to offset the providing of uniforms, deductions taken pursuant to cash advances made to employees, etc. For businesses that employ individuals who earn the minimum wage or slightly above, the taking of certain deductions can run afoul of the minimum wage laws and draw scrutiny from government agencies and class-action plaintiff's attorneys.

- ✓ Reviewing tip-related practices of our clients who have tipped employees, which includes an analysis of tip pool practices, the reporting of and payout of tips, whether tipped employees are being paid at least the minimum wage, overtime rates paid to tipped employees and whether required written notification

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is being provided to tipped employees before a tip credit is taken from their hourly rate.

- ✓ Confirming that clients are maintaining and preserving various payroll records, time records and other required records in accordance with the law.

Our attorneys have provided these services to clients across a wide range of industries, including many industries that are particularly exposed to wage and hour litigation, such as the restaurant, hospitality, landscaping and telecommunications industries. Our vast experience working with all types of businesses is critical, because many of the unique wage and hour issues lurking in a professional services firm will vary, for example, from the issues facing a restaurant or a manufacturing company.

News, Events, and Publications

Rob Bernstein to Share Employment Law Insights at Chicago CLM Conference

05.19.2022

Partners Heather Becker, Antonio Caldarone and Jeffrey Fowler to Share Important Updates to Employment Laws at Laner Muchin's Annual Employment Law Conference on May 18, 2022

04.19.2022

Crain's Chicago Business Interviews Andy Goldberg on Factors Affecting Employer's Decisions on Minimum Wage

07.27.2021

Laner Muchin Attorney Antonio Caldarone Presented on the Wage & Hour Exposures by Key Industries at the ACI Annual Conference

06.05.2018