# MINTZ LEVIN Mintz Levin Cohn Ferris Glovsky and Popeo PC

## Wage & Hour

When pay practices are under close scrutiny, as they are today, the stakes are high. Class-action cases, highly profitable for plaintiffs' lawyers, are very costly for businesses found liable. While a lawsuit involving an individual employee might result in the need to pay an unfortunate penalty – say, \$300 for every \$100 owed in back pay – a class-action case resulting in that kind of penalty could be exponential and financially crippling.

The attorneys in our Employment, Labor & Benefits Practice have successfully defended hundreds of employers in lawsuits of all sizes, including those filed by individual employees as well as class actions and collective actions, that involve alleged violations of the federal Fair Labor Standards Act and state laws.

Unlike a typical lawsuit, a lawsuit involving wage and hour issues requires the employer to disprove the employee's claims. Wage and hour audits can limit your liability. Our attorneys can help you comply with applicable laws and avoid these claims, which may arise from:

- Misclassification, or erroneously classifying an employee as salaried or exempt
- Failure to provide appropriate overtime compensation
- Improperly labeling employees as independent contractors

If you should experience a legal challenge - especially one that develops into class-action litigation - our experienced team will be by your side to help you achieve a successful outcome. In the meantime, we can review your pay practices to help reduce your risk of a successful claim.

#### **Quick Facts**

- Dedicated team in all offices with significant experience defending wage and hour claims
- Backed by 100+ litigators and paraprofessionals
- Experience across a wide range of industries
- Accomplished litigators who specialize in class actions, collective actions, and wage and hour laws
- Extensive trial experience in state and federal courts

### Representative Matters

#### Project OHR

Represent nonprofit provider of home attendants in two hybrid class and collective actions relating to issues that arise from overtime exemptions for certain domestic employees under federal and state law.

#### Cambridge Health Alliance

Obtained dismissal of all state overtime claims for unionized class members on federal labor law preemption grounds in hybrid collective action and class action filed by a nurse on behalf of all non-exempt employees.

#### IDEXX, Inc.

Successfully negotiated favorable settlement agreement for wage and hour class action filed on behalf of pickup and delivery drivers who alleged failure to pay overtime. Majority of settlement amount was funded by joint defendants based on client's position that it was not the principal employer of putative class members.

#### World's leading provider of HR solutions

Obtained dismissal of plaintiffs' overtime claims in wage and hour lawsuit alleging nonpayment of overtime and training time wages to temporary pickup and delivery drivers who claimed joint employment by temporary staffing agency and logistics services company.

#### Leading investment and advisory firm

Represented firm in dismissal, arbitration, and favorable settlement of hybrid collective action and class action alleging misclassification and failure to pay overtime to executive assistants.

#### Cameron International Corp.

After successfully limiting class size in collective action claiming misclassification under professional exemption, we tried this case and significantly limited the amount of recovery.

#### Colliers International Valuation and Advisory Services (CIVAS)

Devised strategy that led to dismissal of wage and hour class action before the class was certified and before any briefing or discovery took place with respect to class certification.

#### Dental Technologies, Inc. (DTI)

Obtained dismissal of wage and hour class action filed on behalf of the company's former and current lab technicians for alleged failure to pay overtime or keep proper payroll records.

#### **Our Services**

- Advise and counsel clients on all aspects of wage and hour law, including:
  - Classification and other exemption issues
  - Appropriate use of and payment practices for independent contractors
  - -Timekeeping and recordkeeping practices
  - Overtime pay practices
  - Determining whether compensation is excluded from coverage
  - Wage payment practices, including timing of payments to exempt and non-exempt employees and timing of final paychecks following a termination event
  - Performing wage and hour audits to ensure compliance with applicable laws
- Defend clients against claims brought under federal and state wage and hour laws, including:
  - Exempt vs. non-exempt misclassification
  - Independent contractor misclassification
  - Off-the-clock, on-call, and waiting time
  - Failure to pay all wages when due
  - Failure to appropriately calculate and pay overtime
- Represent clients in wage and hour investigations undertaken by the DOL and state agencies

#### Isn't it time to connect?

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