

## Wage, Hour, and Equal Pay Claims

### Related Practices

#### Employment and Labor Law

- Wage, Hour, and Equal Pay Claims
- Whistleblower and Qui Tam Actions
- Wrongful Termination – Employee
- Wrongful Termination – Employer

Whether you are an employee or run a business with employees, state and federal laws governing the workplace affect your rights and responsibilities. Regardless of whether you need assistance or advice for your business, or want to know whether you have been fairly treated by your employer, our experienced, knowledgeable employment lawyers can help you understand the law and your options, and help you defend your rights.

### Wage-Hour Issues

The Fair Labor Standards Act (FLSA) contains many of the most important federal requirements for employers in such areas as wage-hour standards, overtime pay, and record-keeping, but these areas can be quite complex, and require a detailed understanding of federal statutes and extensive Department of Labor regulations. South Carolina Department of Labor, Licensing, and Regulations investigators also conduct hundreds of workplace investigations and file well over a thousand citations for wage and child-labor violations each year.

To take one often-litigated example: under the FLSA, overtime pay is not required for certain professional, administrative, and managerial employees, but it is often far from simple to determine exactly which employees qualify for that exemption. Employer mistakes in this area often subject the company to substantial back-wage awards and penalties, and in some cases, class-action lawsuits, usually reaching back several years. If the employer wrongly deems these workers to be exempt from overtime, it's also likely the employer will lack records on the hours the employees actually worked, making it much more difficult to determine any back-pay claims that may be owed to the employees.

Similarly, employers may miscalculate overtime pay by failing to include in a worker's base wage rate (on which premium-pay calculations for overtime work are based) items such as bonus and commission payments. Tipped employees, salary deductions, outside sales workers, employee classifications, and many other practical issues can also pose hidden dangers for employers.

Most employers want to treat their workers fairly and in compliance with applicable laws, but to do that — and to protect their business against potentially serious problems — they need the knowledge and assistance of skilled employment attorneys.

### Equal Pay Issues

The Equal Pay Act of 1963 amended the FLSA to end sex-based pay discrimination. It requires equal pay for all workers within the same establishment for "substantially equal work"

requiring equal skill, effort, and responsibility and performed under similar conditions.

A plaintiff under the Equal Pay Act need not prove the employer intentionally discriminated, only that workers in the same establishment perform virtually identical work, yet sex-based pay differentials exist that do not fall under exclusions in the law. The Equal Employment Opportunity Commission enforces anti-sex workplace discrimination laws, including the Equal Pay Act and the Civil Rights Act of 1964. Employees may also file private lawsuits claiming Equal Pay Act violations. Equal Pay Act lawsuits can involve complicated determinations of essential functions of jobs, worker qualifications, and compensation systems.

In the areas of wage-hour and equal pay issues, an employer should have the advice and assistance of a law firm with experience in these areas, not only to determine its obligations under those laws but to identify and resolve potential problem areas. We can help your business review your human resources policies, practices, and documents to avoid potentially costly and disruptive problems and educate company managers.

Our attorneys also advise individual employees with wage-hour and equal pay issues on whether they have received the benefits to which they are lawfully entitled under local, state, and federal laws.