

Wage and Hour

Practice Group Chair

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Overview

Post & Schell's Wage and Hour attorneys provide employers and management nationally with compliance, consulting, and litigation services under federal, state and local wage and hour laws. Our goal is to work collaboratively with clients to identify and mitigate against potential wage and hour risks, as well as defend employers in litigation and government investigations when the need arises.

Shifting Legal and Regulatory Landscape

The risk of wage and hour-based litigation has increased steadily over the past decade for employers in a broad range of industries. Federal laws, such as the Fair Labor Standards Act (FLSA), mandate obligations to pay overtime and minimum wage (among other requirements), and corollary state and local-specific obligations, including wage payment laws, can vary significantly by jurisdiction.

For employers of all sizes, this means contending with a complex and confusing array of detailed laws and regulations, as well as a shifting federal regulatory landscape. Employers face an increasingly challenging litigation environment with exposure to collective and class actions that hold significant financial risk and often are excluded from insurance coverage under employment practices liability insurance policies.

Wage and Hour Legal Services

Post & Schell's Wage and Hour Practice Group provides employers with two distinct and complementary suites of legal services related to wage and hour challenges:

Wage and Hour Compliance Counseling and Auditing Services:

Employers must ensure that their wage and hour practices are in constant compliance with new and varied laws, regulations, and administrative guidance. Our attorneys provide wage and hour compliance counseling on the full range of wage and hour issues confronting our clients. Post & Schell's attorneys also provide employers with wage and hour "audit" services which include a detailed review of wage and hour policies, pay practices, exemptions, and worker classifications, taking into account industry-specific issues. This process provides actionable guidance that enables employers to modify and refine their wage and hour policies and practices for proactive compliance and to mitigate against potential litigation.

Among other areas, Post & Schell's wage and hour compliance counseling services bring together wage and hour acumen with industry-specific knowledge of issues surrounding:

- Overtime
- Minimum wage
- Employee exempt/non-exempt classification
- Independent contractor/employee classification
- Off-the-clock work (meal break, preliminary/postliminary work, on-call time, travel time)
- Use of a contingent/temporary workforce
- Work-from home and remote workforce arrangements
- Neutral pay practices (rounding, regular rate of pay calculation, etc.)
- Deductions from pay
- Pay for training time
- FLSA compliance

- FMLA compliance

Wage and Hour Investigations and Litigation:

Our Wage and Hour attorneys provide consulting and litigation services to employers and management in wage and hour collective and class actions as well as government investigations. The Group's attorneys have secured summary judgment, dismissals, and favorable settlements for clients involved in wage and hour litigation and government investigations.

Wage and Hour Investigations and Litigation services include:

- Defending employers in federal and state courts against collective and class actions as well as individual cases
- Defending employers in cases brought under state wage payment laws
- Litigation avoidance counseling and support pre-and post-trial
- Defending employers in DOL and state wage and hour investigations

Industry-Specific Counsel

Employers face wage and hour challenges specific to their industry, and require counsel that understands their unique legal and business challenges. Our attorneys have experience and insight into a diverse range of variety of industries, including:

- **Energy & Utilities:** Electric, Marcellus Shale, Natural Gas, Oil & Liquids Pipeline, Renewable/Alternative Energy, and Waste & Wastewater
- **Hospitality Companies:** Hotels, Motels, Resorts, Restaurants/Bars, and Management Groups
- **Health Care Providers:** Hospitals, Health Care Systems, Nursing Homes, Continuing Care Retirement Communities, Home Health Agencies, Personal Care Homes, and Pharmacies
- **National Retail Chains**
- **Professional and Business Services**
- **Building Maintenance and Facility Services**
- **International Mail and Shipping Services**
- **Manufacturing**
- **Security Services**
- **Call Centers**

Representative Matters:

- Defense of large, regional health system in a putative collective action in United States District Court and two parallel class action Complaints in County Court of Common Pleas. Case involved nurse who sought for herself, and others similarly situated, back wages for unpaid overtime, liquidated damages, and attorneys' fees under the FLSA, as well as the Pennsylvania Wage Payment and Collection Law (WPCL) and the Pennsylvania Minimum Wage Act (PMWA).
- Defense of large, regional health system in a putative collective action complaint in federal court for two subclasses of employees seeking back wages for unpaid overtime work, liquidated damages, and attorneys' fees and costs under FLSA.
- Defense of a national retail pharmacy in a class action complaint filed by plaintiff and putative class of more than three hundred (300) current and former exempt assistant store managers alleging misclassification in violation of the FLSA and the New Jersey Minimum Wage Law.
- Provided comprehensive analysis of pay practices related to a business unit of a regulated electric utility for purposes of advising senior management. Analysis included assessment of risk regarding potential off-the-clock work, exempt/non-exempt employee classification, role of temporary workforce, audit of policies, and review of benefit plan documents.
- Conducted audit of pay practices of large hospital related to non-exempt workers focusing on potential off-the-clock work. Provided detailed recommendations to client to mitigate against the risk of wage and hour claims.
- Analyzed job descriptions to assess compliance with white collar FLSA exemptions. Revised job descriptions in collaboration with client.