

Wage and Hour Laws

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The Fair Labor Standards Act (FLSA) is the federal law that establishes minimum wage and overtime standards to protect employees in private and public sectors. The FLSA establishes minimum standards employers must follow; states may offer additional protections. If you are asserting a wage claim, consider claims under the FLSA as well as those under potentially more expansive state laws.

Employees alleging violation of the FLSA can sue their employers to recover back wages and liquidated damages for up to three years if the violation is found to be willful. A prevailing employee can recover unpaid wages, unpaid overtime, liquidated damages, and reasonable attorney fees and costs.

Federal wage and hour law

Under the FLSA, nonexempt employees are entitled to time-and-a-half compensation if they work more than 40 hours in a week. This means that any overtime worked in a particular week must be paid on the pay day covering the same pay period in which the overtime hours were worked.

An employer who withholds overtime pay from a nonexempt employee is in violation of the FLSA. Other examples of FLSA violations include:

- Classifying nonexempt employees as exempt or salaried to avoid paying overtime
- Having employees work off the clock to avoid paying overtime
- Paying below the federally mandated amount for overtime
- Refusing to pay employees any wages at all
- Private employers paying wages with goods or services or compensatory time instead of money
- Refusing to pay employees the minimum wage

An employee who asserts any of these named violations may have a strong unpaid-wages case against an employer. Employers may try to justify their illegal conduct by claiming they lack funds to pay the employee's wages or that they made a deal with the employee allowing the employee to work off the clock for tips. The FLSA, however, does not recognize these actions as exceptions to the law. The employer must pay the wages or overtime due.

State wage and hour laws

Most state wage and hour laws are more expansive than the FLSA. Therefore, when evaluating a wage and hour claim, look into what additional rights or remedies may be provided under state law. In some cases, an employee may only make a claim under state law, and may have no FLSA claim at all.

Many states have a minimum wage higher than that provided under the FLSA and require that nonexempt employees be paid the higher wage. An employee alleging violation of an applicable state's wage and hour law can file suit against his or her employer to recover unpaid or underpaid wages. A prevailing employee in such cases may potentially recover up to three times the amount of wages

owed, liquidated damages, and reasonable attorney fees and costs, depending on state law.

Filing a wage and hour claim

Filing a wage and hour claim under state or federal law can be difficult. The rules and procedures governing wage and hour claims are filled with subtle nuances that can end an employee's case before it even begins. For example, a claim may be dismissed if it lacks adequate evidence and relevant information regarding the wage and hour violation or if it was not filed in a timely manner. Therefore, it is critical to retain skilled counsel capable of determining and applying the laws best suited to litigate your wage and hour claim.