

Top Ten Ways to Avoid/Minimize Employer Liability for Overtime Pay

July 17, 2013

1. Post the "[5 in 1](#)" poster notifying employees of their rights under federal law and take a photograph each year to prove the poster is up.
2. Require and insure that employees track and are paid for each hour worked; do not tolerate off the clock, at home, or other "voluntary" unpaid work.
3. Pay for all employee time that benefits the employer, even if the employee is multi-tasking personal activities with work duties.
4. Beware of sending or requiring employees to respond to emails, texts, or other employment related communications when the employee is off the clock.
5. If an employee who has made or given notice of a claim decides to work elsewhere, do nothing to harm that employee's opportunities to find a new job.
6. Maintain accurate records of all pay, time, and employment data for as long as required by the relevant document retention laws.
7. Don't wait until you are sued - to limit and possibly prevent liability for inadvertent violation of wage laws, have all employment pay practices, policies, employee classifications and exemptions, records, and pay calculations audited by an employment lawyer.
8. If you are sued, retain an attorney experienced in this type of litigation; have that attorney audit your pay practices; change anything you may be doing wrong; and offer to pay any sums or funds due or unpaid. It may be possible to moot or settle the claims and avoid very expensive litigation.
9. Discuss EPLI insurance with your broker.

10. **Most importantly:** Institute a companywide dispute resolution program that requires all employees to resolve all employment related claims by mediation and arbitration, and prohibits expensive litigation, and multi-claimant collective or class actions.

Related Practices

Labor & Employment

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