



Labor & Employment Risk Assessment Program

Today's workplace is regulated by an ever changing array of statutory and common law rules. The complexity and interplay of these laws, coupled with the challenges of managing a diverse and unpredictable workforce, creates extraordinary potential for litigation and legal liability. Not complying with applicable state and federal laws, or simply not taking the most effective course of action, often results in time consuming litigation, significant attorneys' fees, unnecessary expenses and significant liability.

In this regard, we work closely with our clients to find the most cost-effective way to reduce the risks by tailoring our various program offerings to each employer's needs and partnering, as much as possible, with in-house counsel.

Policy Review

The personnel handbook and policies are a common source of employer liability. Poor drafting and inconsistent language often gives rise to breach of contract and other claims. We suggest that policy language be reviewed and updated annually to ensure that policies are current and compliant with the latest legal developments and changes in the law. In addition, policies must include effective disclaimer statements lest they be construed by courts as constituting an enforceable contract.

Training

All too often supervisory employees are faced with difficult personnel situations and simply do not know the appropriate response. By ignoring personnel issues, or trying to deal with them in their own way, supervisors unintentionally may create a problem. In addition, an employer that fails to properly train its employees may be subject to claims of negligence and punitive damages. Conversely, proper training often forms the foundation of a solid legal defense and gives your managers the confidence to know how and when to respond. Our attorneys provide training in:

- Wage and hour compliance; avoiding liability for misclassified employees
- Screening, hiring and termination decisions
- Departing employee issues, such as theft of trade secrets, employee raiding and breach of non-compete agreements
- Preventing and responding to sexual harassment in the workplace
- ADA and FMLA compliance
- Conducting prompt and thorough workplace investigations

Wage & Hour Risk Assessment

Over the past five years, unpaid wage claims by employees have spiked dramatically. More and more, employers today are finding themselves targeted by class action lawsuits brought by employees claiming that they were wrongfully denied overtime and minimum wages. Damages available to employees under federal wage law can, in cases of a willful violation, include attorneys' fees and liquidated damages (which may be equal to double the back pay award). Class action lawsuits for unpaid wages are especially perilous because the potential liability for each violation is likely to be multiplied by the number of similarly situated employees involved. Having defended many employers charged with such violations, our attorneys are well-versed in the nuances of the federal and state wage laws. For example, our attorneys recently defended and obtained a favorable result in a nationwide collective action for unpaid "on-call" time. By identifying potential misclassifications before legal actions are brought, we can make recommendations that allow our clients to minimize or completely avoid liability.

To avoid wage class action law suits, our attorneys will conduct a risk assessment analysis of all exempt and nonexempt employee classifications, recordkeeping practices and other wage law issues. We have advised financial services clients as to the proper classification of call center representatives, customer service personnel, technical personnel and others.

Counseling

From time to time, sensitive personnel issues arise for which there is no clear answer. Perhaps a poorly performing employee who is slated for termination recently complained about sexual harassment. A hasty termination under these circumstances easily could yield a costly sexual harassment and retaliation lawsuit. Navigating these situations requires expert advice and guidance. How such a situation is handled could mean the difference between a respectful parting of ways and years of expensive and time consuming litigation. Our attorneys will provide timely and practical solutions that are consistent with and geared toward the specific needs of your business operations.

For More Information

Please contact James M. Sconzo, Chair of the Labor and Employment Practice Team, at (860) 392-5022 or jms@jordenusa.com or visit www.jordenburt.com.

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