

Increase In Wage and Hour Lawsuits

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According to statistics from various sources, including the Equal Employment Opportunity Commission and the Administrative Office of the U.S. Courts, employment related claims and lawsuits, especially those related to unpaid wages are on the rise, and have been for several years, even as the economy remains slow and unemployment high.

In fact, one [article](#) notes that wage and hour claims by US workers rose to a 20 year high in the period ending March 31, 2012.

Wage and hour complaints arise from several practices, all of which lead employees, or former employees, to claim that they were not paid what they were owed under the law. The most common types of wage hour suits include:

Misclassification Claims: These are cases in which the employee claims that they were misclassified as exempt from overtime, when the nature of their job was such that they should have been treated as non-exempt and paid overtime. Misclassification cases often arise because of the complex rules regarding exemption for certain categories of workers, including administrative employees and computer personnel. It's not always easy to analyze the precise work being performed by each employee in these and other categories against the legal test established for determining when workers in such categories are exempt and when they are not.

Off-the-Clock Claims: One Southern California attorney [reports](#) that these claims are on the rise. Off-the-clock claims relate to situations "when an employer forces or pressures workers to work outside of hours that are not clocked in." The difficult economy, and need to control costs may be factors that contribute to this kind of corporate behavior. The report indicates that the construction industry and retail environment are especially ripe for off-the-clock claims.

Making matters even more difficult for employers, many wage and hour claims are filed as (or become) class action lawsuits, which raises the stakes and can lead to significant judgments or settlements in the millions of dollars or more, depending on the number of employees represented in the class.

Companies need to be aware of the common types of employment related lawsuits and consider potential liability when planning corporate risk management strategy. This is especially true considering that wage and hour claims are on the rise.

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