



## Avoiding The Wage-Hour Lawsuit Boom

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Your hotel has an excellent human resources department, sophisticated and well-publicized policies prohibiting discrimination and retaliation, and effective internal complaint and mediation processes. You've eliminated or reduced the number of charges filed with the Equal Employment Opportunity Commission and lawsuits alleging discrimination. Your GM is beaming, but asks you if the hotel is in the clear?

According to various sources, claims and lawsuits filed on behalf of groups of employees under the Fair Labor Standards Act of 1938, as amended (FLSA), are now more common than race and sex class actions (the traditional front runners in the employment arena).

Certain fundamental wage and hour questions can be answered in black and white terms. That's not to say the FLSA is devoid of gray areas. Gray areas abound, for example, in determining whether an exemption from overtime might apply to a particular employee. But even in these gray areas, an effort at compliance will go a long way in potentially minimizing damages stemming from an unwitting violation. Understanding the key issues raised in these lawsuits is a first step towards compliance.

FLSA issues tend to fall into one or more of the following areas:

1. Have you accurately recorded and properly paid for all time worked?
2. Have you correctly identified all overtime worked and properly computed the overtime pay due?
3. Have you properly classified employees as exempt?
4. Have you incorrectly assumed or decided that someone is not an "employee" for wage-hour purposes?

### Full Compliance Is A Must

The risks that your hotel will eventually be the target of a wage-hour lawsuit are higher than they've ever been. These lawsuits are typically expensive to defend, even if the employer ultimately "wins," – and the likelihood of a complete victory might be small in some situations. It is not unusual for an employer to have to confront this unpleasant fact: the fight is not going to be about "whether" it must pay, but instead how much it will pay. All is not lost and compliance is not that difficult if you understand the rules. The first step is a wage and hour compliance assessment, which, depending

on the size of the company, is relatively painless and inexpensive when compared with the possible consequences of inaction. Make sure your wage and hour house is in order before the government or a lawyer representing your employees or former employees tells you it isn't.

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