



Wage & Hour/Fair Labor Standards Act (FLSA)

Class Actions Suits under the FLSA and State Labor Laws

Under the federal Fair Labor Standards Act (FLSA), similarly situated workers who believe that an employer has violated the federal wage and hour laws can join together to file a “collective action” against the employer. Workers may also have the right under state labor laws to file a class action lawsuit alleging that an employer has failed to comply with state wage and hour requirements. While both types of actions can result in significant exposure and liability for the employer, in a collective action employees who are “similarly situated” have to affirmatively “opt in” to participate in the case and share in any award, whereas in a class action lawsuit the employees will be bound by the judgment unless they specifically “opt out” of the case. Because a class action lawsuit automatically determines the rights of employees who have not opted out, the rules for who can be part of the class are much stricter than in an FLSA collective action.

Defending Employers in Large Nationwide Class and Collective Actions

The Labor and Employment Law attorneys at Kaufman Dolowich are experienced in handling both FLSA collective actions and class action lawsuits brought under state wage and hour laws. We offer employers a team of top-tier class action lawyers who know what it takes to secure a successful outcome in these complex, high-stakes cases. Whether the class or collective action alleges unpaid overtime, a minimum wage violation, employee misclassification or any other type of wage and hour violation, our lawyers have the knowledge, skills and resources to effectively and efficiently manage the case.

When a wage and hour claim arises, our lawyers quickly analyze the case to determine the potential exposure to our client. We also evaluate the case to determine whether it is feasible to challenge a motion for class or collective certification. Because it is often difficult to defeat the conditional motion for class certification in an FLSA collective action, our attorneys will look for ways to limit the size and scope of the class. We may also challenge the parameters of the notice on various grounds, including who will receive the notice, what the notice will say and how many years’ the notice will retroactively cover.

When an employer is faced with a wage and hour class or collective action, our attorneys strive to resolve the matter as early as possible in the process. If a favorable settlement cannot be negotiated or a case fails to be dismissed at the onset of litigation, our legal team is prepared to challenge the case through trial and any appeals. We are a strong and persuasive team of trial attorneys who craft strategic approaches that best protect our clients from costly FLSA and state wage and hour damage awards.