

Worker Misclassification Claims

New Jersey's standard for worker classification is the "ABC Test," which places on employers the significant task of distinguishing between an employee and an independent contractor. The test presumes that a worker is an employee unless the employer can prove otherwise by satisfying all three prongs of the test prongs, which determine whether the worker (A) has freedom from control, (B) works outside the usual course of business, and (C) operates under an independently established business. Employee misclassification claims can be initiated by a single employee, as a class action lawsuit, or through a government audit by the New Jersey Department of Labor and Workforce Development (NJDOL).

Misclassification claims are high-stakes disputes for employers which can result in significant financial penalties for violations. The firm has represented employers in audits and investigations conducted by the NJDOL as well as before the Internal Revenue Service (IRS) and other state agencies. We have defended employers in lawsuits brought by individual or former employees who allege they were misclassified and denied the wages and benefits to which they were legally entitled. Our team also has the resources to defend against more complex lawsuits alleging company-wide misclassification practices which seek damages for unpaid overtime minimum wage violations, and benefits.

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Experience

Representative Matters

- Defended a research company and its owners and managers in employment litigation asserting CEPA whistleblower claims, sexual harassment, discrimination, retaliation, and wage and hour violations, resolving the matter on favorable terms that protected the company's industry reputation.

Insights & More

Client Alerts

The ABC Test: NJ Adopts New Regulations for Determining Independent Contractor Status

5.07.26

NJ Supreme Court Holds That NJ Wage Payment Law is Inapplicable to Real Estate Salesperson Who Has Independent Contractor Agreement with Broker

5.21.24

Publications

NJ Court Sides With Real Estate Broker in Dispute Over Employee Classification Under Wage Payment Law

5.12.24