

Employment Counseling & Litigation

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Wage and Hour Compliance Update for New Jersey Employers

By **Julie Levinson Werner**

As wage and hour compliance becomes an increasingly hot-button issue around the country, New Jersey employers are not immune. As a result of changes to the state law signed on Aug 6, 2019, and effective immediately, employers are now subject to increased penalties and damages in the event of wage and hour violations. Among other things, the law:

- Increases the jurisdictional limit from \$30,000 to \$50,000 for an employee to bring a claim before the New Jersey Department of Labor (NJDOL)
- Imposes the possibility of liquidated damage awards of up to 200 percent of wages owed, unless the employer can show it was its first violation and its error was inadvertent and in good faith, and the employer admits the violation and pays the amount owed within 30 days
- Increases the statute of limitations for employee wage claims from two years to six years
- Presumes that the amount of an employee's wage claim is valid if the employer fails to maintain adequate records to rebut the employee's claim
- Creates a rebuttable presumption of retaliation against employers that take adverse action against an employee within 90 days of any protected activity, unless the employer can show clear and convincing evidence that it took the alleged retaliatory action for permissible reasons
- Imposes the possibility of criminal liability for violations

New Jersey employers must now provide all current and newly hired employees notice of their rights under the State Wage and Hour laws, which includes information about how the employees can file a claim against their employer. The NJDOL will prepare a model notice for use.

Moreover, in an effort to deter violations, the NJDOL will post information about employer violations on its website, including the name and address of the employer, the nature of the claim, and the outcome. Employees (and their legal counsel) will certainly find this information of interest, and will try to use it to demonstrate a pattern and practice of violations.

New Jersey employers should ensure they are in compliance with the wage and hour laws, including by confirming they have properly classified their workers as exempt or nonexempt and ensuring that they maintain all necessary time records for nonexempt employees.

Lowenstein Sandler's employment lawyers are available to answer questions or assist businesses to ensure compliance.

Contact

Please contact the listed attorney for further information on the matters discussed herein.

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