PENDER & COWARD
ATTORNEYS AND COUNSELLORS AT LAW

PRACTICE AREA

WAGE AND HOUR DISPUTES

Our employment attorneys stand ready to assist you with all of your wage-and-hour matters, including record-keeping, "safe harbor" policies, overtime calculations, Department of Labor investigations, and lawsuits, both individual and collective actions. We are also available to work with you to prevent and deal with issues arising from employee/contractor classification, including auditing your contractor agreements and dealing with agency investigations.

Minimum Wage and Overtime Claims

The Fair Labor Standards Act ("FLSA") and the recently enacted Virginia Overtime Wage Act ("VOWA") establish a minimum hourly wage for employees in the state as well as overtime pay for certain qualifying employees. Employers often have difficulty navigating the confusing statutory requirements regarding qualifications for overtime pay and calculating overtime pay for those that are covered by FLSA and VOWA. Our employment team can help you comply with the law by auditing your workforce to determine which employees are exempt from overtime requirement, as well as reviewing your compensation procedures to make sure you are properly paying your employees.

Independent Contractor Misclassification

Independent contractor misclassification has become a hot topic in recent years. The IRS has created a 20-factor analysis, which has also been adopted by Virginia law, that is used to determine whether a worker is a contractor or employee. The Department of Labor has its own, seven-factor "economic realities" test it uses to make that determination for enforcement of the Fair Labor Standards Act. By misclassifying employees as contractors, employers open themselves us to claims for back taxes, unpaid wages, and out-of-pocket medical expenses. Our employment attorneys can help you audit your contractor classification decisions and structure your contracts to protect you against possible misclassification.

Recordkeeping and Payroll Compliance

No matter the size of your business, keeping accurate and organized employee records is essential – particularly those records related to personnel, payroll, and medical files. There are statutes and regulations that mandate preservation of some records, while other records are necessary for the company's defense should an employee make an employment-related charge or file a lawsuit. Our attorneys can assist you with establishing payroll and recordkeeping policies that are legally compliant and necessary.

Payroll compliance is another area where employers can get in trouble. Whether it be determining overtime, or drafting payroll "safe harbor" provisions that can protect you if a mistake is made, our attorneys can assist you

with making sure your employees are timely and accurately paid.

Pender & Coward's employment team stands ready to assist employers in creating and maintaining legally compliant wage payment policies. We are also prepared to defend employers on "wage and hour" matters before government agencies and the court.