

Miami-Dade County Enacts Wage Theft Ordinance

April 2010

Miami-Dade became the first county in the nation to adopt a countywide wage theft law. The ordinance, effective on March 1, 2010, applies to private sector employers, prohibits wage theft, and provides administrative procedures and private causes of action. An employer found to be in violation of the ordinance will be required to pay the actual administrative processing and hearing costs as well as restitution to the employee, which would include back wages owed as well as liquidated damages of double that amount, and possibly treble damages.

Now, Miami-Dade employers who misclassify employees as exempt, or as independent contractors, can be charged with wage theft as well as a violation of the Fair Labor Standards Act. Prompting the new law was a perception that requiring employees to opt-in to FLSA class action lawsuits hampered their ability to seek remedial action in court. A wage theft claim can be brought whenever an employer fails to pay any portion of wages within a reasonable time from the date on which the employee performed the work. A “reasonable time” is defined as no later than 14 calendar days from the date the work was performed; however, this time may be modified to no longer than 30 days by an express agreement between the employer and employee that has been reduced to writing and signed by the employee.

Once an employee brings a timely claim, the accused employer will have to defend itself before a county-appointed hearing examiner in a trial like procedure. The employee, however, can choose at any time to stop the proceedings and file a civil action in State or Federal Court.

Given this new liability, employers in Miami-Dade County need to carefully review their employee classifications and have systems in place to promptly pay for all work performed.

For more information contact scott@schaffer-law.com or (860) 216-1965.

www.schaffer-law.com