The Lawyers Want Their Piece Of the Pie

The issue of worker misclassification has continued to gain greater visibility on all sides. Employers are more aware of the risks involved. Workers are quicker to question their individual independent contractor status, wondering if they aren't, in fact, employees. Then you have the legal eagles—the lawyers hungry for their piece of the pie, turning worker misclassification into something of a legal cottage industry.

Lawyers are making concerted efforts to pursue potential individual cases and build class action lawsuits with increasing boldness. There are entire websites dedicated to misclassification claims, making it easier than ever for workers to find out if they might have a case—and even easier for law firms to gather their information and secure potential new plaintiffs to help build their cases. It's as simple as filling in an online form and clicking "submit" and a potentially misclassified worker can electronically raise a red flag for a company and possibly start the ball rolling on a claim.

Individual lawsuits are one thing, but class action suits are quite another. After all, the bigger the class action lawsuit, the bigger the potential judgment against the employer in question. This means the bigger the payoff for the lawyers bringing them, and for the employers, if can mean a nightmarish legal quagmire that will cost them dearly to escape.

Several big-name companies have already been hit with class action suits for worker misclassification. Uber, Lyft, and FedEx have all felt the financial impact these cases can have. With awarded judgments and settlements ballooning into the hundreds of millions of dollars, these companies have become not only cautionary tales, but also benchmarks against which other cases will be compared.

Why are the financial stakes so high? Well, the suits can be filed to recover monetary damages including retroactive payment of employment taxes, back wages, employer-sponsored benefits, and unpaid overtime, as well as interest, fines, and penalties associated with each. If a company has multiple instances of misclassification, then the stakes increase exponentially.

An increasingly high number of suits also include the deprivation of standard benefits, plus 401(k) matching and stock options vesting that would otherwise be earned as an employee. These kinds of figures can get lawyers salivating, as they anticipate taking their big bite of the misclassification apple.

We know that that the Department of Labor (DOL) and the Internal Revenue Service (IRS), have joined forces to share information and resources, working in conjunction with other agencies to crack down on worker misclassification. Along with the increased enforcement efforts with additional agencies at state and federal levels, this means a level of scrutiny that most employers would rather not subject themselves to. Some may even think it prudent to proactively settle claims before they even make it as far as a courtroom, where they may risk a judgment and jury award that could place them in dire financial straits.

Just the thought of a judgment similar to the ones that Uber, Lyft, and FedExhave been hit with is enough to make most employers sweat bullets—and to make lawyers eager to get their piece of the profit pie salivate with eager anticipation.

Is your company potentially at risk of a misclassification suit? If so, it's time to reach out to those who can help insulate you from risk and bring you into compliance. We're sharing this information with you to ensure that you understand the risks—and so that you know that we are here for you. We are On Assignment—the total talent solution.