

## Practice Areas

### Labor and Employment

Affirmative Action Plans and OFCCP Compliance  
EEOC/Agency Class Investigation and Litigation Defense  
Discrimination Defense Trials and Arbitrations  
FLSA/Wage-and-Hour Defense  
Corporate Immigration Law  
California Employment Law  
Executive Agreements and Severance  
Labor Management Relations  
Leave of Absence and Disability Advice/Defense  
Non-Compete and Trade Secret Litigation  
Pay Equity Advice and Defense  
Pre-Hire Testing and Background Check Advice/Defense  
Preventive Employment Counseling  
Reductions in Force  
Whistleblower/False Claims Act Defense  
Workplace Investigations  
Industry Focus: Health Care  
Industry Focus: Restaurants  
Industry Focus: Retail  
Industry Focus: Tech  
Startups

Nilan Johnson Lewis has an impressive record of success defending class, collective, and other representative wage-and-hour matters. We have defended employers against wage-and-hour litigation in various jurisdictions, including Arizona, California, Florida, Maine, Michigan, Minnesota, Missouri, New Mexico, New York, and North Carolina. We have defeated motions for certification under the FLSA's Section 216(b) and Rule 23 or state equivalents. We have also prevailed on summary judgment, including on class claims asserted by the U.S. Department of Labor against our clients. Our representation has included particularly complex matters, such as a recent nationwide class/collective action against a Fortune 50 employer alleging misclassification claims under the FLSA and analogous state laws. The plaintiffs filed in various states before consolidating their claims into a single collective action. One of the named plaintiffs and several putative class members also filed separate lawsuits against the employer alleging violations of various discrimination statutes. We obtained summary judgment on some of the lawsuits, convinced the plaintiffs to abandon their effort to certify a class, and then successfully resolved the remaining individual claims.

## Representative Matters

- *Confidential Matter* (N.D. Cal.): Defending multiple Fortune 500 companies in a novel putative plaintiff and defendant class action alleging discriminatory employment advertisements on Facebook.
- *Confidential Matter* (Cal. state court): Defending a Fortune 500 technology company in a state-wide PAGA action based on underlying allegations of off-the-clock work, meal and rest break violations, and unreimbursed expenses.
- *Olukayode v. UnitedHealth* (D. Minn): Defended against a nationwide FLSA independent-contractor misclassification case involving at-the-elbow consultants.
- *Cooper v. Bonafish Grill LLC, OS Restaurants LLC and Bloomin' Brands* (E.D. Wis): Defended against nationwide FLSA collective action alleging failure to pay for all hours worked by hourly employees.
- *Hirsch v. PCM, Inc.* (N.D. Tex): Defended against a nationwide FLSA independent-contractor misclassification case alleging inappropriate classification of sales personnel under the 7(i) exemption. The plaintiff agreed to take an individual settlement and dismiss all class and collective claims.
- *Jibowu, et al. v. Target Corporation* (E.D.N.Y.): Defending against a nationwide FLSA collective action involving alleged misclassification of assistant store managers. Convinced the court to stay the case during the pendency of another matter. This matter is still in litigation.
- *Beldiman v. Universal Hospital Service* (C.D. Cal. and Cal. state court): Defended against a statewide class action and PAGA claim alleging violations of the California Labor Code, including off-the-clock work, meal and rest breaks, expense reimbursement, and wage statements.
- *Stoute, et al. v. Cerner Corporation, et al.* (Cal. state court): Defended against a statewide off-the-clock class action. Named plaintiff dismissed class claims; negotiated a resolution on plaintiff's individual claim.

- *Lopez, et al. v. Zenefits* (D. Ariz.): Defended against a nationwide FLSA misclassification case. Won motion to compel arbitration against named plaintiff, resulting in swift, favorable settlement of opt-in claims and remainder of action.
- *Summitt v. Superior Concepts, Inc.* (Minn. state court): Defending a multi-location restaurant against a class action alleging violations of the Minnesota FLSA and regulations regarding distribution of tips. The matter is still in litigation.
- *Truesdell, et al. v. Link Snacks, Inc.* (W.D. Ky.): Defended against a nationwide FLSA misclassification case. Achieved favorable settlement.
- *Burnip v. HMS Host* (D. Minn.): Defended against a statewide FLSA and Minnesota FLSA class and collective action. Negotiated a confidential resolution.
- *Locicero, et al. v. Target Corporation* (D.N.J.): Defended against a nationwide FLSA collective action involving alleged misclassification of assistant store managers. Named plaintiffs accepted individual initial offers of judgment and dismissed their collective action claims.
- *Johnson, et al. v. Pinstripes; Huff v. Pinstripes* (Minn. state court; N.D. Ill.): Defended a national restaurant chain against FLSA and state law tip-sharing, and unpaid overtime class and collective actions. Reached confidential resolutions.
- *Boutwell v. Warrior Custom Golf* (M.D. Fla.): Defended against a statewide FLSA collective action alleging off-the-clock work by wait staff. Negotiated a nuisance-value settlement.
- *Elwell v. Blazek Contracting* (D. Minn.): Defended against a statewide misclassification class and collective action under the FLSA and Minnesota motor carrier exemption. Negotiated nuisance-value individual settlement and dismissal of class and collective claims before certification.
- *LaPointe, et al. v. Target Corporation* (N.D.N.Y.): Defended against a statewide New York labor law misclassification case. Prevailed on a partial motion to dismiss, after which the named plaintiff agreed to accept a confidential individual settlement and dismiss the class claims.
- *Scott, et al. v. Cerner Corporation* (Mo. state court): Defended against a statewide Missouri wage law misclassification case. Achieved favorable settlement.
- *Jones, et al. v. Best Buy Stores, L.P.* (D. Minn.): Defended against a nationwide FLSA collective action alleging failure to compensate hourly store employees and asset protection personnel for time spent in security checks. Prevailed on motion to dismiss stores employees' portion of the class and resolved remaining claims.
- *Taylor, et al. v. Cerner Corporation* (Mo. state court): Defended against a statewide FLSA and Missouri wage law misclassification class and collective action. Reached a confidential resolution.
- *Crawford v. Cerner Corporation* (W.D. Mo.): Defended against a statewide FLSA and Missouri wage law misclassification class and collective action. Prevailed on motion to dismiss the claims of nearly all class members based on agreements to arbitrate; resolved remaining claims.
- *Speer, et al. v. Cerner Corporation* (W.D. Mo.): Defended against a nationwide FLSA collective action arising out of payments under the fluctuating work week. Reached a confidential resolution.
- *Long, et al. v. CPI Security* (W.D.N.C.): Defended against a regional (North Carolina, South Carolina, and Georgia) FLSA collective action alleging inappropriate classification of sales personnel under the 7(i) exemption. Negotiated a confidential resolution.
- *Swisher, et al. v. MetLife Home Loans, et al.* (D. Minn.): Defended against a nationwide FLSA collective action alleging misclassification of loan officers. Settled as part of a national resolution.

- *Gifford, et al. v. Target Corporation* (D. Minn.): Defended against a nationwide FLSA collective action alleging misclassification of store executives. Successfully moved to disqualify plaintiffs' counsel; reached confidential settlement of individual claims before conditional certification motion.
- *Cross v. Rochester Home Care* (D. Minn.): Defending a personal care assistant company against statewide class action alleging unpaid overtime. This matter is still in litigation.
- *Stroud, et al. v. Target Corporation* (D. Minn.): Defended against a nationwide FLSA collective action alleging misclassification of warehouse executives. Successfully opposed conditional certification motion; reached confidential settlement of individual claims.
- *U.S. Department of Labor v. Watab Hauling* (D. Minn.): Defended against a class claim by the United States Department of Labor alleging failure to pay overtime. Obtained summary judgment on the overtime claims under the motor carrier exemption and achieved nuisance-value settlement on the remaining claims.
- *Delsing, et al. v. Starbucks* (D. Minn.): Defended against a statewide class action alleging violations of the Minnesota FLSA and regulations regarding distribution of tips. Defeated class certification; reached confidential settlement of two individual claims.