

Tampa Bay Business Journal - July 14, 2008

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TAMPA BAY Business Journal

Friday, July 11, 2008

Law firms troll for complaints among disgruntled workers

Court order aims to shed light on lucrative employment claims

Tampa Bay Business Journal - by [Jane Meinhardt](#) Staff Writer

TAMPA -- A tough economy has federal wage and hour complaints on the rise, and that has some plaintiff's lawyers cashing in. Several regional firms are feasting on a lucrative niche by convincing businesses to settle as a way to avoid costly litigation.

The Fair Labor Standards Act and its intricacies create what a Tampa employment attorney describes as a minefield of "gotchas," particularly at a time when businesses are downsizing because of the economy.

It's a major wake-up call to small businesses to take a look at their employment practices, said Sheri McWhorter, a partner at **Foley & Lardner** LLP in Tampa.

"There is nothing intuitive about FLSA, and some law firms are making a business out of the gotchas," McWhorter said. "They're not just going after complaints with one or two employees but collective action. That's where the money is."

All business, perfectly legal

McWhorter and others in labor law practices have seen a proliferation of wage and hour cases filed by two firms especially -- **Morgan & Morgan**, which has an office in Tampa, and the **Pantas Law Firm** based in Orlando.

They are not the only ones noticing.

Federal judges in the Orlando division of the Middle District of Florida have noted the rising number of FLSA complaints filed by some members of the two firms and a failure by some of their lawyers to abide by established deadlines, orders and schedules for cases, resulting in numerous court orders to show cause for not complying.

"The court has been lenient in tolerating the repeated neglect and non-compliance of the law firms and lawyers. The court has continually admonished the law firms and their respective counsel to no avail that further non-compliance would not be tolerated," U.S. Magistrate Judge Gregory Kelly wrote in a May order to the two firms and some of their lawyers.

The order noted that K.E. Pantas was listed as counsel in nearly 827 labor cases filed in the

Middle District and a Morgan law firm member had about 281 cases. The court issued 51 show cause orders to Pantas from March 2007 through May 20, 2008, the order shows.

The court also implied a level of disrespect for the system. The 10 lawyers named by Kelly were ordered to show why they have "repeatedly failed to comply" and why they should not be banned from filing additional FLSA cases.

Neither Pantas nor attorney John Morgan responded to requests for comment on the order and their wage and hour law practices. The firms spend a lot of money marketing to would-be clients on billboards, newspapers and TV, and offer convenient Web-based forms.

Hearings will be scheduled for the firms and their lawyers, according to the order.

Looking to expedite settlements

"The order is a big slap on the wrist to these attorneys for filing all these lawsuits and then not looking after them," said Wendy Smith, a lawyer at **Fisher & Phillips** LLP in Tampa whose practice areas include wage and hour law and other employment and labor law. "Wage and hour cases have become a real business for them, a volume business against employers of all sizes. They just want a quick settlement, and most of these types of cases settle. In order to make money, the plaintiffs attorneys do everything as fast as possible to get the maximum recovery."

Some firms file so many wage and hour cases that "boilerplate" complaint forms are used with only the parties' names changed, Smith said. Sometimes the pronouns used in the complaint are not changed to match the parties.

Drafting and filing complaints probably only takes several hours and can result in a quick settlement of \$3,000 to \$5,000 for a case involving a single plaintiff, Smith said. Most FLSA complaints deal with overtime pay allegations.

"The real money is in overtime complaints," she said. "The majority I deal with -- if the clients have violated the law -- it has been unintentional. Determining what laws apply to your business is so difficult."

Smith recommended businesses have an audit of employment practices to avoid liability, particularly as more plaintiffs' lawyers focus on wage and hour cases.

"Every business in Florida is a sitting duck, especially in the Middle and Southern [federal court] districts," she said. "Very well-intentioned employers get taken to the cleaners sooner or later. It is not enough to be fair and generous. You have to be in compliance with the law."

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