

## Seyfarth Shaw Attorneys Author Definitive Guide to Litigating Wage & Hour Lawsuits

Seyfarth's Wage & Hour Collective and Class Litigation is the "essential resource" for practitioners; "first-of-its-kind" treatise offers insight on litigation strategy through all phases of wage/hour lawsuits

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NEW YORK (February 8, 2012) – It's become the hottest area of workplace litigation, surpassing discrimination, harassment and pay-and-promotion lawsuits. Now, leading employment law firm Seyfarth Shaw has produced a unique new handbook to help companies defend against wage and hour lawsuits. Co-authored by three Seyfarth partners and edited by the chair of the firm's national wage-hour practice, *Wage & Hour Collective and Class Litigation* is the most comprehensive guide published to date focused on this burgeoning area of litigation. It promises to quickly become an indispensable companion for those battling wage-hour suits in courts across the country.

The new book is published by American Lawyer Media's Law Journal Press and available online at [www.lawcatalog.com](http://www.lawcatalog.com). It examines how employers in multiple industries are targeted for wage-hour lawsuits and provides substantive procedural and practical considerations that determine the outcome of such actions in today's courts. Principally designed to assist employment litigators and in-house counsel, Seyfarth's book should also prove useful to senior management seeking to fend off wage-hour actions before they strike.

The guide has already received praise. The Honorable Elaine L. Chao, the 24th U.S. Secretary of Labor, states: "Given the recent explosion of wage and hour litigation, both management- and plaintiff-side attorneys will find this publication to be an invaluable reference. With its painstaking attention to the law and procedure, this treatise will certainly be the go-to resource when practitioners ponder questions of strategy and substance in the context of wage and hour cases."

The 800-page volume was authored by Seyfarth employment partners **Noah Finkel**, **Brett Bartlett** and **Andrew Paley**, who practice in the firm's Chicago, Atlanta and Los Angeles offices respectively. **Richard Alfred**, Boston-based Chair of Seyfarth's national Wage & Hour Litigation Practice, served as senior editor. All are experienced litigators who have handled numerous class actions alleging wage and hour violations under both state and federal law.

Alfred notes that the book is the first of its kind to blueprint the mechanics of wage and hour cases, which have recently outpaced all other types of workplace class actions. Seyfarth estimates that wage/hour lawsuits have surged by more than 325 percent since the early 2000s, to which Alfred testified before the U.S. House of Representatives at a congressional hearing on the Fair Labor Standards Act in 2011.

"Wage and hour litigation has exploded in the last decade and settlements have frequently amounted to tens of millions of dollars," said Alfred. He notes that workers have aggressively used wage-hour claims to bring suits against employers in dozens of industries, including hospitality, real estate, insurance, health care, manufacturing, food and beverage, and others where overtime charges, minimum wage or commissions are at stake. Many cases have been fought over claims that hourly workers were denied compensation for meal breaks, travel times or even the few moments it takes to put on a uniform or boot up a computer.

“Wage-hour has become the dominant battleground in the American workplace, and disputes have increased dramatically since the economic downturn and also as plaintiffs’ counsel have extracted huge settlements from companies caught in the crosshairs,” Alfred added. “We hope our new book becomes a go-to reference and standard text not only for employment defense litigators, but also in-house general counsel, government agencies and all employers confronting wage and hour matters,” said Alfred. He explained that the book discusses the entire life cycle of wage-hour cases, from complaint to certification to trial and subsequent verdict, settlement or dismissal.

*Wage & Hour Collective and Class Litigation* takes up 27 chapters and covers the complex rules surrounding all types of wage and hour lawsuits. These include claims under the Fair Labor Standards Act, claims under state wage and hour laws, or hybrid cases involving both, as well as special issues involving government contractors. It advises employers on: how to respond to a wage and hour complaint; what to consider when deciding whether to remove a case to federal court; how to assess the particular merits of a claim; whether to settle; how to oppose plaintiffs' motion to facilitate notice for conditional certification; what kinds of affirmative defenses are best; and how to tilt the odds in favor of the defense.

Among topics covered by the book:

- The certification process and the impact of conditional certification
- Decertification and its sometimes unexpected consequences
- Defending against state law wage and hour class actions brought under Federal Rule of Civil Procedure 23
- Discovery issues and strategies in class and collective actions
- Special considerations under California law, one of the country’s leading venues for wage-hour cases
- Issues raised by ERISA claims in wage and hour cases
- Coordinating or consolidating multiple simultaneous class actions
- Meeting the duty to preserve information, including electronically stored information
- The pros and cons of arbitration
- Motions for summary judgment and the optimal time to file
- Civil remedies, including calculation of unpaid overtime and liquidated damages
- Actions by the Secretary of Labor to recover unpaid wages and overtime
- Defending "independent contractor" cases
- Calculating the "regular rate" for purposes of the FLSA

The authors will update the book regularly to stay abreast with developments in wage and hour law.

Author backgrounds:

Noah Finkel has represented companies in more than 75 collective or class action matters under the FLSA and state wage-and-hour laws. He regularly advises employers on compliance with the FLSA and state wage-and-hour laws, including performance of exempt status reviews and pay practice audits. Finkel also participated in drafting of public comments to the U.S. Department of Labor on its proposed regulatory changes to the FLSA’s white-collar exemptions on behalf of the Society for Human Resources Management and the Public Sector FLSA Coalition.

Brett Bartlett, Chair of Seyfarth’s Labor & Employment group in Atlanta, has defended more than 80 class and collective actions brought by employees alleging entitlement to unpaid overtime and minimum wage

across a broad span of industries. Bartlett provides preventative counseling and change management assistance to employers wishing to limit their exposure to investigation and litigation under the FLSA and the state laws that require employers to pay overtime and minimum wages to their employees.

Paley has litigated numerous class and collective actions for alleged wage and hour violations under both state and federal law for clients in the financial services, retail, hospitality, telecommunications, automobile, and insurance industries. Paley's experience includes the defense of large nationwide collective actions and multi-district litigations. He also advises clients on conducting pre-litigation wage and hour audits.

Seyfarth Shaw has over 750 attorneys located in 10 offices throughout the United States, including: Atlanta, Boston, Chicago, Houston, Los Angeles, New York, Sacramento, San Francisco and Washington, D.C., as well as internationally in London. Seyfarth Shaw provides a broad range of legal services in the areas of labor and employment, employee benefits, litigation, corporate and real estate. The firm's clients include over 300 of the *Fortune* 500 companies, and our practice reflects virtually every industry and segment of the economy. For more information, please visit [www.seyfarth.com](http://www.seyfarth.com).

