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"THANK YOU FOR EVERYTHING!! I TRULY APPRECIATE ALL YOU HAVE DONE FOR ME AND THE SUPPORT YOU HAVE BEEN THROUGH THIS ENTIRE PROCESS. I COULDN'T HAVE PICKED A BETTER FIRM TO WORK WITH. THANK YOU AGAIN."

\- C.D.

MISCLASSIFIED EMPLOYEE?
KNOW YOUR RIGHTS & WHAT TO DO NEXT

Your job title might say one thing, but how your employer treats you tells the real story. Many workers believe they are independent contractors or salaried employees exempt from overtime, only to discover they have been misclassified. Employee misclassification is a serious issue in which a company incorrectly categorizes a worker, often to reduce costs and avoid legal responsibilities.

This practice can leave you without critical protections and benefits, such as minimum wage, overtime pay, health insurance, and workers' compensation. Understanding the different types of misclassification and recognizing the signs is the first step toward protecting your rights. Barrett & Farahany will explain how employees can be misclassified, the consequences it can have on your financial well-being, and the legal steps you can take if you suspect you are a victim.

Types of Employee Misclassification

Employee misclassification generally falls into two main categories. Both can have a significant negative impact on a worker's earnings and legal protections.

Independent Contractors vs. Employees

One of the most common forms of misclassification is labeling a worker as an "independent contractor" when they should be classified as an "employee." Employers do this to avoid paying payroll taxes, unemployment insurance, workers' compensation, and providing benefits such as health insurance and paid time off.

An employee typically works for one employer, receives training, follows a set schedule, and uses tools provided by the company. In contrast, an independent contractor operates their own business, often works for multiple clients, sets their own hours, and uses their own equipment. When an employer treats a worker like an employee but pays them like a contractor (often with a 1099 form instead of a W-2), it is likely a case of employee misclassification.

Exempt vs Non-Exempt

Another frequent issue is misclassifying a "non-exempt" employee as "exempt" to avoid paying overtime. Under the Fair Labor Standards Act (FLSA), non-exempt employees are entitled to overtime pay (1.5 times their regular rate) for any hours worked over 40 in a week. Exempt employees, typically those in executive, administrative, or professional roles who meet specific salary and duty requirements, are not entitled to overtime.

An employer might give an employee a managerial-sounding title or pay them a salary instead of an hourly wage to create the appearance of exempt status. However, a job title alone does not determine exemption. The actual job duties and salary level are what matter.

If your primary tasks do not meet the legal criteria for an exempt role, you may be a misclassified employee owed significant back pay for unpaid overtime...

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