NJDOL's New And Powerful Enforcement Mechanism Marks More Aggressive Approach To Enforcing New Jersey's Labor Laws

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The New Jersey Department of Labor and Workforce Development (NJDOL) has commenced the first part of a new and aggressive approach to address employer violations of state wage, benefit, and tax laws. Under this initial phase, the NJDOL has been sending final notices to employers who have failed to satisfy their outstanding liabilities to the State for labor law violations, offering them a last opportunity to resolve those liabilities before they are placed on the Workplace Accountability in Labor List (WALL). The WALL was established by statute as part of a series of statutory measures to prevent and rectify worker misclassification and improper treatment. For example, employers who fail to pay overtime because they have misclassified a worker as exempt, or who fail to pay minimum wage because they have misclassified an employee as an independent contractor, have violated the labor law. The recent statutory measures provide the NJDOL with unprecedented and broad powers to enforce compliance, and the WALL is one of the most powerful tools in its new arsenal.

The NJDOL's enforcement measures and ability to punish violators are now both increasingly serious and public. A business whose name appears on the WALL is prohibited from contracting with public entities until it resolves its outstanding liabilities. The first WALL, set for publication next month, will be publicly available, and updated monthly. Although the first notices were sent to businesses with existing violations, future offenses are equally punishable by placement on the WALL.

Employers who have been issued a final notice by the NJDOL should consult with counsel immediately and do everything possible to resolve their outstanding liabilities to avoid the business and reputational harms associated with a listing on the WALL. Employers who have no current outstanding liability should remain scrupulous to avoid the public shaming and restricted access to public funds that follows from placement on the WALL. In all cases, we are here to provide guidance to help employers through this process and to ensure that businesses are not unwittingly ensnared by the NJDOL's new and aggressive enforcement mechanism.