Alleged Wage and Hour Violations Triggered a Nearly $2 Million Fine, But Strategic, Pro-Active Counsel Reduced It Significantly

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Our client, a national restaurant chain, was facing a Department of Labor (DOL) wage-and-hour investigation. The DOL alleged that our client had violated work rules governing the “tip pool” that allows tipped employees making an hourly wage less than the minimum wage to share in tips. Managers and “back of house” employees are not allowed to share. The DOL determined that a violation had occurred and was preparing to fine the employer nearly $2 million in back pay for its employees based on a two-year look-back period.

As soon as we received notice of the investigation, we advised the employer to change its pay practices, and the company did so. As the DOL explained its investigation and the fines it intended to impose, we learned that the statute of limitations for imposing penalties for many of the alleged violations had already elapsed. Reminding DOL officials of rules governing wage-and-hour investigations – in particular that the statute of limitations was not tolled (i.e., the “clock” governing the statute of limitations did not stop) during the investigation – we were able to forestall the imposition of penalties for many of the alleged violations.

The DOL agreed to a very reduced settlement amount, thus limiting the company’s liability in the matter.