

# The Impact of Wage & Hour Claims and Arbitration Clauses

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# Today's Moderator



**Cate Chapman**

Editor

Research & Editorial Division

Advisen Ltd.

# Today's Panelists



**Adeola Adele**  
EVP, National EPL  
Product Leader &  
Cyber Liability Resource,  
Willis FINEX NA



**Gerald Maatman**  
Partner,  
Seyfarth Shaw LLP



**Hunter Pyle**  
Partner,  
Sundeen Salinas &  
Pyle

## Topic: Wage and Hour Claims



**Cate Chapman**  
Advisen Ltd.

**Q1: Seyfarth Shaw's Workplace Class Action report earlier this year forecast a wave of W&H claims involving misclassification of employees as being exempt from overtime pay or as independent contractors, and other practices resulting in wage theft. Has the wave crested yet? What are the hot spots of W&H litigation in and the significant cases so far? What are the emerging exposures?**



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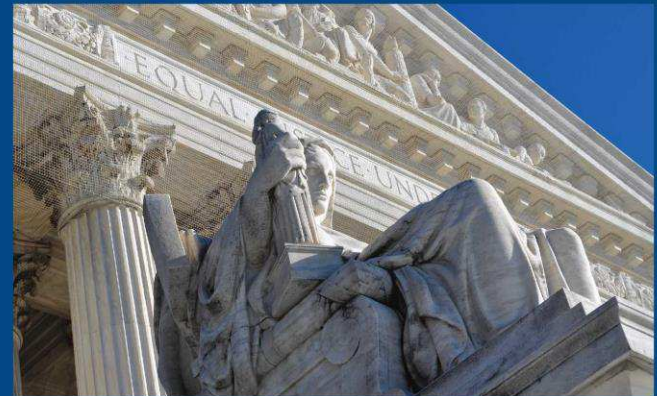


# Introduction

- The 2015 Annual Workplace Class Action Report (“WCAR”)
- Overview Of 2014/2015 Developments
- Our Topics Today Relative To Wage & Hour

SEYFARTH  
SHAW

11th Annual  
**Workplace Class  
Action Litigation  
Report**



2015 EDITION

Seyfarth Shaw LLP



# What Is Hot In The Wage & Hour World?

- **The Post-Wal-Mart And Comcast Corp. Fallout** – 2014 saw new rulings on Rule 23-related issues after defendants challenged class certification based on new theories.
- **Evolving Class Certification Theories** – “Re-booting” of certification theories by the plaintiffs’ class action bar and how this process is impacting defense strategies.

# Common Wage & Hour Issues

- Overtime
- Wage Theft Prevention Act
- Minimum Wage
- Wage Timing
- Wage Deductions
- Break Obligations
- Record-Keeping Requirements
- Independent Contractors
- Misclassification (Exempt vs. Non-Exempt)
- Rate of Pay
- Compensable Time

# What Should Be In Your Wage & Hour Compliance Tool Kit?

- Train managers of non-exempt employees on wage & hour compliance
- Audit for "off the clock" issues through timekeeping systems (e.g., Kronos) and payroll reports
- Review closely any independent contractor relationships and document them properly
- Pay extra attention to litigation trends with respect to particular job classifications and industries



## Topic: Arbitration Clauses & Class Action Waivers



**Cate Chapman**  
Advisen Ltd.

**Q2: Employers are said to be quietly "migrating" to a system in which employees, as a condition of their employment, agree not to sue the boss but submit instead to arbitration of workplace disputes. How has this come about and how widespread is adoption of clauses? What are implications for the workplace and where is the issue headed—Supreme Court review? When has there been such a potentially paradigmatic shift in workplace dynamics?**



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Seyfarth Shaw LLP



**Hunter Pyle**  
Sundeen Salinas & Pyle



**Cate Chapman**  
Advisen Ltd.

## Topic: Coverage Solutions

**Q3: You have said that more needs to be done to meet the challenge of insuring employers in the US against W&H claims. Can you elaborate? What makes W&H so hard to cover? What is the industry's perspective on arbitration clauses?**



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## Topic: The Future



**Cate Chapman**  
Advisen Ltd.

**Q4: A write-thru of rules regarding overtime pay and especially the salary ceiling for exemption is expected from the DOL this summer. Are there thoughts regarding what is needed from the administration, the legislature or the courts concerning these workplace issues?**



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Seyfarth Shaw LLP



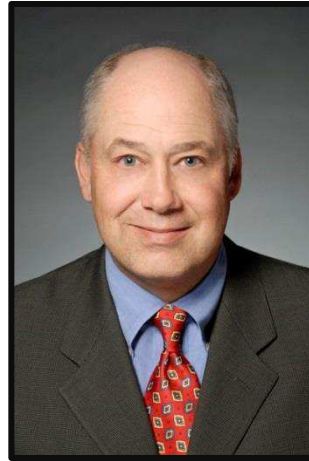
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# Thank you to our Panelists



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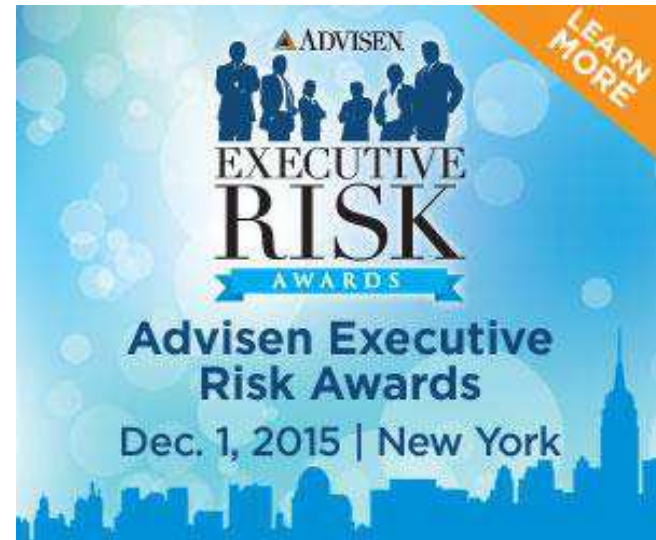
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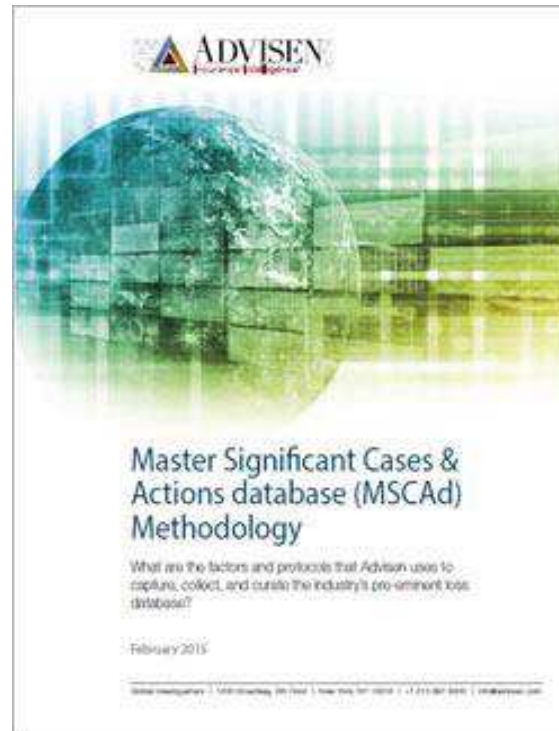


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