

Department of Labor Planning Enhanced Enforcement

By **Barry Y. Freeman**

Not surprisingly, the U.S. Department of Labor's Wage and Hour Division is looking to reverse many of the Trump administration's employer friendly initiatives and rules. Those reversals include:

- Setting aside gig-industry-friendly rules that made remote and home workers easier to classify as independent contractors. By doing so, remote and home workers will be judged as employees or independent contractors under the same standards as other workers. In addition to reversing the Trump administration's changes, the Division's current deputy administrator hinted at additional rules (likely pro-employee) for gig workers.
- Setting aside the recent independent contractor rule which, most notably, provided a bright-line rule that made employees of franchisees almost exclusively employees of the franchisee and not the franchisor. (Put another way, ensuring a restaurant employee was employed by the McDonald's franchise and not McDonald's itself.)
- Eliminating the Trump-era DOL practice of only seeking actual damages (vs. double damages) from employers and other incentives for employer's self-reporting wage and hour violations to DOL.
- Lobbying Congress for budget increases, to increase the number of investigators, which is down about 25% since the Obama administration.

If you have any questions or concerns, please contact any of the listed Roetzel attorneys.

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