



**Brian T. Farrington**  
Shareholder

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**Practice Areas**

- Employment Law



**Practice Emphasis**

Brian T. Farrington is a Shareholder and Section Head of the Cowles and Thompson Employment Law section. His practice consists of transactional work and litigation advising and representing management concerning employment law, and particularly in the areas of Fair Labor Standards Act and Equal Employment Opportunity laws. He consults with employers to assist them in compliance and to represent them in investigations by the U.S. Department of Labor, Wage and Hour Division. Brian also advises clients on compliance with state wage and hour laws and represents them in investigations by state Departments of Labor. He also advises on matters related to Texas Workforce Commission unemployment eligibility, government contracts labor standards (Davis Bacon Act, Service Contract Act), OSHA 11(c), and state wage payment laws. Brian has represented clients in litigation under the FLSA, Title VII, the ADEA, and the ADA.

Prior to becoming an attorney, Brian spent 12 years working with the US Department of Labor Wage & Hour Division. He has served as an Expert Witness in FLSA employment matters, and is a trained employment-related mediator.

Prior to joining Cowles and Thompson, Brian led his own solo practice, *Law Offices of Brian T. Farrington*, for 18 years.

**Representative Matters**

- Successful **total victory** for 10 clients in a Department of Labor matter where debarments from the H-2B program were completely reversed. 2023
- Successful representation of fast-food restaurants in Texas in a Wage-Hour investigation. The agency originally demanded approximately \$1.5 million in back wages and another \$1.5 million in liquidated damages, and proposed another \$250,000 in civil money penalties. After lengthy negotiations, the case was closed with a total payment of \$50,000 (or about \$0.015-cents on the dollar). 2018
- Successful wage dispute settlement. A Houston-area employer was investigated by the Wage and Hour Division of the U. S. Department of Labor (“DOL”). DOL told the employer it was in violation of the overtime provisions of the Fair Labor Standards Act (“FLSA”), the federal minimum wage and overtime law, and owed in excess of \$500,000 in back wages. The company’s local counsel called in Brian Farrington of Cowles and Thompson. Brian got the case settled for \$45.00. The client and local attorney were pleased with the outcome. 2013

## **FLSA**

- Represented hundreds of employers in FLSA investigations conducted by U.S. Department of Labor, Wage and Hour Division. In addition, Brian has represented employers investigated under the Davis Bacon Act (DBA), Service Contract Act (SCA), Migrant and Seasonal Agricultural Worker Protection Act (MSPA), etc. In almost every case, reduced or eliminated back wage liability and avoided litigation by USDOL/WH. Clients range from small "mom and pop" businesses to Fortune 500 companies.
- Advises several regular retainer clients on Wage-Hour, EEO, workers comp, unemployment and other matters. He assists with personnel actions such as discipline, terminations and layoffs. He also drafts and reviews policies, handbooks and manuals.
- Engaged to review FLSA status of companies, particularly exempt/non-exempt classifications, hours worked issues, and proper computation of overtime.
- He has knowledge and experience in child labor issues.
- Brian has developed unique knowledge and experience in DBA/SCA matters. (Few private sector attorneys are familiar with government contracts wage standards.)
- Successfully negotiated Civil Money Penalties in FLSA, child labor, and MSPA cases.
- Often hired by other lawyers to assist them in FLSA cases. He has assisted other lawyers in drafting pleadings, interrogatories, RFPs, RFAs, MSJs, and appellate briefs.

## **EEO**

- Brian prepares dozens of position statements annually in response to EEOC/state discrimination and harassment charges.
- He has attended mediations representing clients and has a very successful track record of resolving difficult cases.
- Assists with personnel actions such as discipline, terminations and layoffs as well as draft/review of policies, handbooks and manuals.

## **OTHER**

- Additional experience responding to complaints under OSHA 11(c), state wage payment laws.
- Conducted I-9 reviews for companies internally, and to comply with higher-tier contract obligations.

## **EXPERT WITNESS**

- Mr. Farrington has been engaged as an expert witness in more than 80 FLSA cases in federal and state court.

## **U.S. DEPARTMENT OF LABOR, WAGE AND HOUR DIVISION - Experience**

- Investigator/Compliance Officer in Chicago from 1975 to 1982, with 18 months off to pursue graduate studies. Became a Senior Investigator/Compliance Officer in 1981.
- In 1982, transferred to Ft. Worth, and continued as an Investigator until 1984.
- As an Investigator, he conducted 500-600 full Wage-Hour investigations, along with another 300-400 more limited enforcement actions.
- Promoted to Assistant District Director in the Dallas District Office of Wage-Hour in 1984.
- Directly responsible for the District Office's enforcement program, and directly supervised between 12 and 16 subordinates. Involved in hiring, training, evaluating, and disciplining of the Investigators who reported to him.
- Supervised some 5,000 investigations.
- As Assistant District Director required to know the FLSA and other laws enforced by the Wage-Hour Division thoroughly. Responsible for determining in each case whether the law was properly applied by

the Investigator, whether the evidence was adequate to support the Investigator's conclusions, and whether back wages had been calculated properly. When cases could not be settled at the Investigator level, conducted "second level" negotiations to attempt secure from employers and their representatives agreements to comply with the law and pay back wages. When necessary, made the decision that litigation by the Government was appropriate, and sent the file to the Regional Solicitor of Labor with that recommendation.

### Speaking Engagements

Brian is noted for his exceptional ability as a speaker and trainer. He has taught sessions on the FLSA for the State Bars of Texas and Arkansas, and for the Dallas Bar Association. He has addressed groups such as the Society of Human Resource Management, the Texas Payroll Conference; attendees at AADP's "Meeting of the Minds" national conference, Ceridian Corporation's "Insights" national conference, local chapters of the Human Resources Associations, American Payroll Association, American Compensation Association, and many others. Recent presentations include:

- **"EEO (Equal Employment Opportunity) Basics,"** presenter, Texas Payroll Conference, September 2022
- **"FLSA – Wage and Hour Basics,"** presenter, Texas Payroll Conference, September 2022
- **"Driving Diversity in the Workplace,"** co-presenter, West/Celesq podcast, August 2021
- EEO Basics, Texas Payroll Conference, 2018-2020
- FLSA and Exempt Employees, Texas Payroll Conference, 2018-2019
- FLSA and Non-Exempt Employees, Texas Payroll Conference, 2018-2019
- **"Overtime Calculation Under the Fair Labor Standards Act,"** Dallas Bar Association Friday Clinic, 2018
- **"H-1B Hiring Compliance and Prevailing Wage,"** Cowles and Thompson Immigration webinar, 2018
- **"Wage-Hour and EEO Compliance,"** author and speaker, Professional Development Institute, University of North Texas, 1990-1996 (*This course was approved for 8 hours of Continuing Professional Education for Certified Public Accountants, by the Texas Society of CPAs, and for 6.75 hours of Continuing Legal Education by the Texas Bar Association. In 2000, Brian wrote another book-length course manual and designed and began teaching a course on compliance with employment regulations for the American Institute of Certified Public Accountants.*)

### Publications

- **"A Daily Rate of Pay, No Matter How High, is Not a Salary – Says the Supreme Court,"** author, Cowles Thompson *Business and Legal Update*, March 2023
- **"Ending Forced Arbitration for Allegations of Sexual Assault and Sexual Harassment,"** author, Cowles Thompson *Business and Legal Update*, October 2022
- **"The Supreme Court Upholds Stay of President Biden's OSHA Vaccination Mandate; Overturns Stay of Healthcare Workers Mandate – Where Do Things Stand Now?"** author, Cowles Thompson *Business and Legal Update*, January 2022
- **"Vaccine Mandate, OSHA, and the Fifth Circuit,"** author, Cowles Thompson *Business and Legal Update*, November 2021
- **"Mandatory COVID-19 Vaccinations for Employers of 100 or More,"** co-author, Cowles Thompson *Business and Legal Update*, September 2021
- **"Starting September 1, 2021 – Texas Employers of Any Size can be Sued for Sexual Harassment in the Workplace,"** co-author, Cowles Thompson *Business and Legal Update*, September 2021
- **"Court Dismisses Lawsuit Challenging Hospital's COVID Vaccine Requirement,"** author, Cowles Thompson *Business and Legal Update*, June 2021
- **"Reasonable Agreements and the FLSA: A Different Approach to Wage-Hour Issues Raised by Working from Home,"** author, Cowles Thompson *Business and Legal Update*, June 2021

- **“Will the New Sheriff in Town be the Old Sheriff? (What’s Ahead for the Gig Economy),”** author, Cowles Thompson *Business and Legal Update*, May 2021
- **“The COVID Vaccine and Workplace Compliance,”** co-author, Cowles and Thompson *Business and Legal Update*, 2020
- **“Dallas Employee Sick-Leave Ordinance Slated to Start April 1 Has Been Blocked,”** author, Cowles and Thompson *Business and Legal Update*, 2020
- **“Coronavirus: Texas Workforce Commission Issues Guidance for Separations,”** author, Cowles and Thompson *Business and Legal Update*, 2020
- **“What Employers Should Know about the Families First Coronavirus Response Act,”** author, Cowles and Thompson *Business and Legal Update*, 2020
- **“Alert: Coronavirus and Recent Activities on Capitol Hill,”** author, Cowles and Thompson *Business and Legal Update*, 2020
- **“Supreme Court Casually Changes Decades of FLSA Enforcement,”** author, Cowles and Thompson *Business and Legal Update*, 2018
- **“To Whom to Tips Belong? A Long and Winding Road,”** Cowles and Thompson *Business and Legal Update*, 2018
- *A Wage-Hour Guide for the Self Storage Industry*, author, Self Storage Association, 2006.
- “SHRM Legal Report,” author, Society for Human Resource Management, 1996 (re: FLSA Amendments)
- *Wage-Hour Compliance*, author, Warren, Gorham, and Lamont publishers, 1995

#### Education

- J. D., Texas Wesleyan University School of Law, 1994
  - Editor in Chief, *Texas Wesleyan Law Review*
- M.A., *with honors*, University of Chicago, 1974
- B.A., *summa cum laude*, University of Dallas, 1973

#### Admissions

- State Bar of Texas, 1994
- U.S. Court of Appeals for the Fifth Circuit
- U.S. District Court, Northern District of Texas
- U.S. District Court, Eastern District of Texas

#### Memberships

- State Bar of Texas
- Dallas Bar Association

#### Honors

- *Best Lawyers in America*® -- Employment Law – Management, *Best Lawyers*®; selected for inclusion 2016-2024
- *Texas Super Lawyers*®. Thomson Reuters *Super Lawyers*®; selected for inclusion, 2019-2023