

Dancer Employees Allegedly Stripped Of Wages Through Misclassification

November 1, 2016 | [Fair Labor Standards Act, Labor And Employment](#)



**Douglas M.
Oldham**
Of Counsel

It has long been argued by many detractors that gentlemen's clubs objectify women. A group of exotic dancers in Philadelphia has gone a step further and argued that their employer has objectified them as workers by failing to treat them as employees and failing to pay them the minimum wages to which they are entitled.

A class of approximately 75 exotic dancers has sued The Penthouse Club under the Fair Labor Standards Act (FLSA) claiming they were wrongly classified as independent contractors and were not paid minimum wage – or any wage at all. The class of dancers claims they were treated as independent contractors and that they worked solely for tips from customers without any wages. However, the women state they were not contractors and were subject to the FLSA's minimum wage. They claim the club controlled all aspects of their job duties, making them employees and not independent contractors, as they were not "independent." Specifically, the club controlled the dancers' schedules, strictly enforced employment rules, and regularly fined and disciplined dancers if they violated the rules. If found liable, the club could be liable for several years of back wages at the federal minimum wage of \$7.25 per hour for each plaintiff, plus an equal amount in liquidated damages, as well as attorneys' fees, costs and interest.

Such damages can be staggering, as [similar actions have seen millions awarded to employees](#) improperly classified as independent contractors. Additionally, the club could be liable for unpaid federal employment taxes, plus interest. Whether they operate gentlemen's clubs or other businesses, employers should be mindful of the obligation to pay employees consistently with the Fair Labor Standards Act and that there are important differences between employees and independent contractors under the law. The case at hand is *Diaz v. 3001 Castor, Inc.*, No. 16-cv-05645 in the U.S. District Court for the Eastern District of Pennsylvania.

RELATED PRACTICE AREAS

Labor and Employment
Wage and Hour

RELATED TOPICS

Class Action Lawsuit
Fair Labor Standards Act (FLSA)
Independent Contractor