

Day Rates, Independent Contractor Status, FLSA and an Unlicensed Lawyer

“Have you ever considered the possibility that you might be the next person your contract attorney sues?” asks in Vinson & Elkins’ *Insights*.

“As frightening as that sounds, that’s exactly what happened in the bizarre dispute leading up to a recent Fifth Circuit decision, *Faludi v. U.S. Shale Solutions, L.L.C.* There the plaintiff was an unlicensed attorney who contracted with the defendant to be a legal consultant. The defendant paid him on a day rate basis, required him to sign a non-compete, and treated him as an independent contractor. Once the plaintiff left the company, he immediately filed a Fair Labor Standards Act (“FLSA”) lawsuit where he claimed that he had actually been an employee who was misclassified as exempt and was entitled to unpaid overtime wages.”

“Fortunately for the defendant, the Fifth Circuit concluded that the plaintiff had been properly classified as an independent contractor. Fortunately for us, the case demonstrates several lessons about certain business practices and FLSA compliance.”

Read the article.