

Off-the-clock work poses problems for employers

The courts are seeing an increasing number of cases where non-exempt employees are suing their employers for unpaid wages. In many of these cases, the employees claim that they worked off-the clock. That is, they worked hours beyond those reported on their timesheets. Off-the-clock time may occur for a variety of reasons and may be inadvertent or intentional on the part of the employer.

Most off-the-clock work claims stem from one of three causes: improper record keeping practices, confusion about what constitutes compensable work, or supervisor misconduct. For example, a payroll system may automatically deduct time for a meal break, which the employee did not take. Or an employee may perform work before their scheduled shift, such as inspecting a vehicle before a trip. Or a supervisor may coerce an employee into working off-the-clock in exchange for career advancement.

The Department of Labor says that non-exempt employees must be compensated for all hours worked. The employer must also ensure that work is not performed if it does not want it to be performed, and employers cannot accept the benefits of work that is performed without compensating employees for their work. Obviously, employers can decrease their likelihood of being hit with a lawsuit by ensuring that employees are paid for all hours worked. CTSI suggests that your county:

- Adopt and publicize a timekeeping policy for employees to report all hours worked. If you do not want employees to work overtime, indicate that employees will be disciplined if they work overtime.
- Incorporate timekeeping training into new employee orientation. Train managers and employees to understand what constitutes compensable work. Train managers to make sure that employees do not work off-the-clock and to reprimand them if they do.
- Require employees to sign their timesheets each week to certify their hours worked. Employees should confirm that they did not work any hours not itemized on the timesheet.
- Require supervisors to review and sign employee timesheets to ensure that the timesheets are accurate, complete, and signed by the employees; and that the supervisors made reasonable efforts to confirm the accuracy of the hours reported.
- Put a procedure in place to report and rectify payroll system errors and violations, such as supervisor requests to work off-the-clock.
- Make sure your automated payroll system functions correctly. For example, ensure that it pays employees for actual time worked (not scheduled time), adjusts hourly wages for shift premiums, and calculates overtime correctly.
- Document any timesheet changes. If your payroll system allows managers to make changes to employee timesheets, require managers to document any changes and explain why they made those changes. Documentation is critical in the event of a lawsuit.
- Periodically audit your payroll records and calculations to look for any irregularities.

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