Personal Liability for
Hard-to-Spot Overtime Risks

What are the chances you have an overtime violation that's under your radar? In 73% of its recent wage and hour investigations, the DOL found violations. That's what the DOL's new enforcement data website says.

And the federal overtime law, the FLSA, puts your personal skin in the game. Depending on the circumstances, an overtime claimant can impose individual liability on managers, officers and even directors.

In *Goetz*, a federal court in Austin put a director on trial for the overtime pay sins of his company. The court refused to let the director skate on summary judgment. Pointing to the director's heavy involvement in a round of layoffs and participation in an employee training seminar, the court tossed the director's personal liability to an Austin jury.

Don't count on your insurance company to pick up the tab. Many EPLI policies won't cover overtime claims—they're specifically excluded. Insurance companies know that overtime compliance is a risky business.

Protect yourself by spotting and resolving overtime risks before they become collective action lawsuits. Just a few common ground zero risks:

- Independent contractors who should really be employees receiving overtime pay
- Salaried exempt employees whose job duties do not match the overtime exemptions
- Salaried exempt employees whose pay is docked against overtime rules
- Automatic deductions from the time clock for lunch and other breaks
- Failing to pay non-exempt employees for their time:
    - Working from home on a smart phone
    - Booting up a computer before a shift

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Federal Overtime Law

Fair Labor Standards Act (FLSA)

Overtime pay

Miscalculating overtime pay

Misclassification as exempt

Independent contractors