

EMPLOYMENT LAW ALERT

May 2011

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Timekeeping? There's an App for That!

By: Kimberly B. Malerba



On May 9, 2011, the U.S. Department of Labor announced the launch of a free smartphone application intended to assist employees in independently tracking their own work hours, breaks and overtime hours. These electronic timesheets are designed to allow employees to create their own time records either manually or through the use of a timer. In addition to simply recording their work hours, the application permits users to record comments relating to their work and to view and email a summary of their working hours.



These records will become particularly significant in scenarios in which employers do not maintain complete and accurate

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timekeeping records. In such a scenario, an employee's version of his work hours and wages owed, which may now be readily accessible through their smartphone, may be relied upon by the Department of Labor. Indeed, in the press release announcing the launch, the Department of Labor indicated, "This information could prove invaluable during a Wage and Hour Division investigation when an employer has failed to maintain accurate employment records." Further, Secretary of Labor Hilda L. Solis stated, this "app will help empower workers to understand and stand up for their rights when employers have denied their hard-earned pay."

To further assist employees, the app provides employees with an easy method of contacting the Department of Labor's Wage and Hour Division, as well as obtaining other information about wage laws. In addition, users are provided with information about workers' rights and how to file a complaint in the event of a violation of the wage and hour laws. This program, which is currently accessible only on the iPhone and iPod Touch, is available in English and Spanish and may become available on additional platforms in the future.

For workers that do not have a smartphone on which the application is currently available, the Wage and Hour Division provides employees with access to a printable work hours calendar to track their rate of pay and working hours. Both the printable calendar and the free application download is available to employees on the Wage and Hour Division's Web site.

While only time will tell how significant this new development will be, it is clear that the Department of Labor is more aggressively seeking to identify employers who are not complying with wage and hour laws. Further, as employees become more tech-savvy and aware of their rights, it is inevitable that more employers will be forced to deal with audits, be required to produce reliable time records and justify their exempt/non-exempt classifications. As a result, it is essential that employers review their classifications and timekeeping strategies to ensure that they are compliant with all applicable laws. Remember, where an employer does not have accurate records, an employee's account of his or her time is legally presumed to be valid. The effect of this presumption will only be more pronounced now that employees can more easily and definitively keep track of their time.

If we can be of assistance on this or any other employment law issue, please do not hesitate to contact us.



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