



Chicago Cops Lose Case on Smartphone Overtime

News

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Joel Rice was quoted in *Corporate Counsel* on December 14, 2015. The article “Chicago Cops Lose Case on Smartphone Overtime” addressed a recent lawsuit against the Chicago Police Department from officers who believe that the city is shortchanging them on overtime for work that they do on their smartphones after hours.

Part of the solution, said Joel is an effective and well-communicated policy. “The court gave a pretty clear directive to employers,” he explained “which is, if you’re going to allow non-exempt hourly employees to use these devices, you’d better have a really clear policy.”

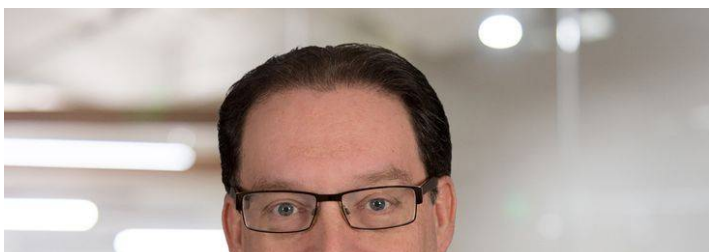
The ruling touched on, but didn’t delve deeply into, how much use of a smartphone during off-duty hours would lead to compensable overtime. It indicated that monitoring a device probably wouldn’t require overtime, but more sustained use that prevents the worker from doing other non-work activities might move into overtime territory. “I think it’s still an open question how much is enough,” Joel said, as case law isn’t too well established yet in this area.

Joel cautioned against the assumption that the rules will necessarily be finalized in their current form, but he says that if they do stay as planned, big changes could be coming. “You could have people that are relatively responsible in their duties, but no longer meet the pay threshold [for overtime pay exemption],” he said “and you could sweep in more people who are in the types of jobs where they might be using the smartphone for work.”

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