

Wireless Gadgets Can Create Wage Claims

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In today's wireless environment, BlackBerrys, iPhones and other handheld devices increasingly provide employees with round-the-clock access to e-mail from remote locations. While wireless gadgets allow us to maximize productivity in competitive economic times, they may also give rise to overtime, minimum wage and other wage payment claims.

Managing tech-savvy employees has become the latest compliance challenge under federal and state wage and hour law. Although litigation regarding this issue is relatively new and the majority of courts has yet to take a definitive position, plaintiffs lawyers are asserting that even reading or monitoring a BlackBerry or cell phone can amount to compensable time worked. Keep this in mind, along with the unique aspects of your business, when drafting your policy.

Since handheld devices capture electronic time-entry data, employees who expect to be paid for time spent tapping away at their BlackBerrys after hours may have a built-in mechanism for tracking time within these devices. In the event that the employee chooses to utilize the device on the way to and from work, the workday itself could become further expanded. These same considerations may apply to employees who choose to remotely access their emails via desktop computer, check voicemail, or even call into the office for work updates.

As times change, 20th century policies designed to regulate conventional time computation practices may no longer fit today's workplace. With the rapid growth of a "perpetual workplace," employers are finally confronting the proposition of evaluating just how many hours these employees are actually working, and evaluating whether they are properly classified from an exemption standpoint.

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