

SMART PHONES' BIG WAGE AND HOUR HEADACHE

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A smart phone is now as much a piece of your office life as a desk, laptop or employee handbook. Anyone can use their BlackBerry or iPhone to stay current on news and events, update social media status and check their email from any location with a signal.

For more and more people, that e-mail checking usually includes a work e-mail box. The potential dilemma: there are legal issues to consider when an employee uses technology to stay connected outside of work hours, even if the smart phone is not issued by the employer.

Recently, a police officer sued the City of Chicago on behalf of himself and others, seeking pay for time spent dealing with work-related phone calls, voice mails, e-mails, text messages and work orders via BlackBerry devices and similar "personal digital assistants." The officer contends that these activities entitle the group to an award of overtime compensation under the federal Fair Labor Standards Act (FLSA).

The idea of checking on work activities outside of work hours is neither a new phenomenon nor surprising. However, the extreme proliferation of electronic communication devices into every part of our lives creates a new wrinkle and key issues that employers must address when it comes to smart phone use outside the workplace: Non-exempt vs. exempt status – Do you know how your employees are classified?

Moving forward, technology will continue to invade all parts of employee lives and further blur the line between work and personal time. Employers need to stay up-to-date on current information about potential impact of timesheet app entries in wage disputes; it is recommended all employers continue to monitor Department of Labor updates and any potential changes to the Fair Labor Standards Act.

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