



Legal Alert: DOL Launches Smartphone Timesheet App

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Executive Summary: The Department of Labor's (DOL)'s new smartphone app, a timesheet that enables employees to track their hours and determine the wages they may be owed, makes it more important than ever for employers to ensure that they have accurate and effective record-keeping procedures and that exempt employees are appropriately classified.

The New Timesheet App

The app, a link for which is available on the Wage and Hour Division's web page, <http://www.dol.gov/whd/>, includes overtime pay calculations at a rate of one and one-half the employee's regular rate of pay but does not handle items such as tips, commissions, bonuses, deductions, holiday pay, pay for weekends, shift differentials, or pay for regular days of rest.

The app permits users to add comments on any information related to their work hours; view a summary of work hours in a daily, weekly and monthly format; and email the summary of work hours and gross pay as an attachment. Additionally, the app includes a glossary with the DOL's important terms and a "contact us" button with links to the DOL's Wage and Hour division.

Currently the app is compatible with the iPhone and iPod Touch. The DOL has stated it will explore updates that could enable similar versions for other smartphone platforms, such as Android and BlackBerry, as well as other pay features

The App Will be Useful in Wage Hour Investigations

In the press release announcing its launch, the DOL stated that the app is significant because "instead of relying on their employers' records, workers now can keep their own records. This information could prove invaluable during a Wage and Hour Division investigation when an employer has failed to maintain accurate employment records." Thus, it is clear that the DOL views this app as an important tool for employees who want to challenge their employer's pay practices.

A number of other issues are not so clear, however. For example, can an employer require employees to turn in the timesheets created from the app so these records can be compared to the employer's records to ensure there are no discrepancies? What action should an employer take if there are discrepancies between the records? Can an employer fire an employee for refusal to turn in these records when requested? Or would such action

violate the FLSA's antiretaliation provision? If the records are created from an app installed on an employer-provided smartphone, does that change the answer to any of the prior questions? It is possible the DOL will issue guidance that clarifies some of these issues; however, other issues may not be resolved short of litigation.

If you have any questions regarding the new app or other wage and hour issues, please contact the Ford & Harrison attorney with whom you usually work.