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## There's An App for That

And it's Exhibit 1 to the wage and hour lawsuit that has just been filed against your company!

The Department of Labor (DOL) has announced the release of its first smartphone app – a timesheet that allows employees to keep track of their work hours and calculate how much they are owed each workweek. With this app, English- and Spanish-speaking employees can track regular work hours, break times, and overtime hours not only for themselves but for others. The free app is currently compatible with the iPhone, iPod Touch, and iPad, but the DOL is exploring updates that could enable similar versions for other smartphone platforms and that would enable other pay features, such as the inclusion of tips, commissions, bonuses, deductions, holiday pay, pay for weekends, shift differentials, and pay for regular days of rest.

For those employees who do not have a compatible smartphone, the DOL has a printable work hours calendar available for use that not only provides employees with a means to independently record their work hours but also a primer on what their employers may be doing wrong. Of course, the DOL's toll-free telephone number is included at the bottom of the calendar. Gosh, they are helpful!

So, beware. The DOL has just made it easier for employees to build their case, especially if they can legitimately argue that your recordkeeping system is not trustworthy based on their own personal "DOL-designed" recordkeeping system. While the DOL does not indicate how it can determine whether what an employee enters on either the app or the printable calendar is accurate or dependable, remember that the employer has the burden of proof in wage and hour disputes.

Not only is it the employer's responsibility to keep accurate records, it should also be your goal. Being able to show that employees follow your recordkeeping procedures, that there is limited access to time records with a limited number of users who can make adjustments to these records, that employees are required to report any known hours worked and/or other payroll discrepancies, and that any and all time record changes can be and are tracked is essential to defending a claim by an employee that he has worked more hours than he has been paid. Even with all that, it will be telling to see how this new technology comes into play when there is a disparity between an employer's records and the information contained on the employee's iPhone.

Being an employer just keeps getting better, doesn't it? For assistance preparing or revising your payroll policies and/or performing an audit of your wage and hour recordkeeping procedures, please contact [Karen Smith](#) or your Miller & Martin [Labor and Employment law attorney](#).

*The opinions expressed in this bulletin are intended for general guidance only. They are not intended as recommendations for specific situations. As always, readers should consult a qualified attorney for specific legal guidance. Should you need assistance from a Miller & Martin attorney, please call 1-800-275-7303.*

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