



Overtime and Unpaid Wages

Under both the federal Fair Labor Standards Act (FLSA) and state law, unless you are an exempt employee, you must be paid minimum wage, which is presently \$7.25 per hour, and time-and-one-half your regular hourly rate for any hours worked in excess of 40 hours in a workweek. If you are not paid minimum wage, or if you are not paid overtime, you may have a claim against your employer. Often these claims can be aggregated with your coworkers to form a class action lawsuit.

There are common practices which violate wage & hour law. While executive, administrative, professional employees, outside sales employees and certain computer professionals are exempt from minimum wage and overtime pay requirements, many employers misclassify employees, mistakenly or intentionally, as being exempt when they are not. Similarly, simply because you are paid a salary or receive a commission does not mean that you are necessarily an exempt employee.

Another unlawful practice occurs when an employer fails to account for all the time you actually work as opposed to scheduled work. This may happen when a company fails to accurately record time, alters time or requires employees to work before signing in or after signing out. Your employer may claim you are not entitled to overtime because it was not approved. However, if your employer knows that you have worked for the benefit of the company through your break or after hours, they may be required to pay you for those hours and any overtime owing as a result of counting that time.

A growing problem in today's economy is when a company refuses to pay you overtime because it misclassifies you as an "independent contractor" when you are really an employee. The label "independent contractor" does not mean you are one under the law. That misclassification can result in a violation of wage & hour law.

Since the rules that determine who is exempt from minimum wage and overtime requirements and what hours count as hours worked can be complex, you should consult a Willig, Williams & Davidson employment attorney if you believe you may not have been paid appropriately.

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