



The DOL - At It Again

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The U.S. Department of Labor recently announced a free smart phone application designed to help employees independently track the hours worked and wages owed. The app allows users to enter their daily work hours manually or automatically using a timer, and to view and e-mail time reports. In addition to recording work hours and calculating basic hourly wages, the app includes a prominent "contact us" button, with links that allow users to easily call or send an e-mail to the DOL's Wage & Hour Division.

DOL's news release says: "[U]sers conveniently can track regular work hours, break time and any overtime hours for one or more employers. This new technology 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."

According to Secretary of Labor, Hilda Solis, she is "pleased that my department is able to leverage increasingly popular and available technology to ensure that workers receive the wages to which they are entitled . . . This app will help empower workers to understand and stand up for their rights when employers have denied their hard-earned pay."

The app is currently available in the app store for Apple iPhone and iPod Touch devices and the app and a calendar can also be downloaded here. The DOL says it will "explore" versions for other platforms such as Android and Blackberry.

Encouraging employees to keep what amounts to a separate set of books raises a host of potential problems, including but not limited to whether (a) rest breaks should be tracked - which employers typically do not do; (b) employees should be permitted to log onto their own time recording app during work hours; (c) app data is reliable evidence; and (d) this will impact the burden of proof in a wage claim litigation.

This new development underscores the importance of employers maintaining accurate employee time records, obtaining weekly time verifications from employees, and vigilant compliance with federal and state wage and hour laws.

We will continue to monitor and update you with any new information on this subject. For more information, or if you have any questions regarding employment related issues, please contact us at employment@nossaman.com.

How Nossaman Can Help

Nossaman's Employment Practice Group assists private and public employers with identifying, implementing, and achieving their goals. Our services include counseling, advice, and litigation on a broad array of employment and labor related matters, including harassment, discrimination, wage and hour, unfair competition/trade secrets, wrongful terminations, executive employment agreements and benefits, leave laws, reductions in force/Warn Act, record retention, and union/employer relations. We also offer investigation and assessment services that often eliminate the threat of a lawsuit and grievances, and give our clients an effective roadmap for responding to inquiries.