

**Wage/Hour Problems: Hourly or Salaried Employee? The Line is blurring and cases are rising.  
Employers Beware...**

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Are you an hourly employee? Perhaps you are salaried and therefore not entitled to overtime pay according to your boss? Times are changing and employers are starting to get the message.

The Fair Labor Standards Act ("FLSA") protects employees from disorganized or malfeasant employers who by disregarding the law, ultimately put money in their own pocket at the expense of their employees. Adding to the problem are employees who believe they are advantaged by getting paid "cash" or "under-the-table" rather than as required under the federal and state labor laws that guard employees against employers who attempt to defraud their employees and the system.

If you are an hourly worker, following are some scenarios of how you may be getting screwed over: working a 40 hour week getting paid "off the books" for anything above 40 hours or getting paid all of your wages in this fashion, neither of which rise above minimum wage – by doing this, your employer avoids paying you time and a half to which you are entitled under the law; deducting money from your subsequent paycheck that you were "short" in your register – this is against the law and can be recovered from your employer!; denied meal breaks or rest periods – you are entitled to take these; managers participating in your tip pool.

If you are a salaried worker, STOP! Under the FLSA, you must be employed in a "*bona fide executive, administrative, or professional capacity...or an outside salesman*" in order to be exempt from the FLSA hourly requirements. There are extremely strict tests to determine whether you are in fact exempt, many of which most salaried workers do not meet which shifts the burden to the employer to prove otherwise...which more often than not these days they cannot prove. Misclassification of employees is a common and growing problem.

The penalties under these laws are severe including compensatory and punitive damages as well as attorneys' fees. Employers fear juries that will judge them as if it is their own boss who is probably contemplating firing them for simply not avoiding jury duty that day! I know, it's not legal but it's a reality for many. Know your rights, be aware and stand up for what you are owed! If need be, seek out an experienced employment attorney to discuss your rights.

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