FLSA & Office Workers

FLSA lawsuits involving office workers have typically involved "off the clock" work and employers mistakenly classifying employees as exempt from the FLSA overtime rules.

Most clerical workers are "nonexempt," which means they are entitled to overtime pay if and when they actually work more than 40 hours in a work week.

Sometimes clerical employees perform job-related activities which are not identified, captured or compensated by employers. Examples include working through lunch, staying late to finish a project, running a job-related errand on the way home, or actually doing work at home. The FLSA requires employers to count all time actually worked by employees when computing pay due. Any off the clock work time must be added to all on the clock work time. If the total time actually worked in a work week exceeds 40 hours, FLSA overtime pay is due.

Sometimes employers classify office employees as exempt, who are really nonexempt. This can happen when an employee holds a fancy job title but really performs clerical tasks, such as when a secretary is called an "administrative assistant" or a computer troubleshooter is called a "systems analyst." It can also happen when an employer pays an employee a salary rather than an hourly wage. Merely paying an employee on a salary basis does not make an employee exempt from the FLSA overtime rules. To be exempt, an employee must not only be paid on a salary basis but must also perform exempt job duties.

For more on exempt versus nonexempt employees, refer to the "Coverage" section of this website.