

## **Automated Workforce Management: Protecting Your Company from Wage & Hour Lawsuits**

**H**ow proactive has your organization been in managing labor costs and protecting itself from employee wage and hour lawsuits?

There are two major labor related law suits: one initiated by the Department of Labor, and another initiated by disgruntled employees.

“All it takes is one disgruntled employee to start a million dollar class action lawsuit,” according to Ursula R. Kubal, a prominent employment law attorney with leading labor and employment law firm, Carlton DiSante & Freudenberger LLP in Orange County, California.

Over the last few years employees have filed a record number of lawsuits in California against employers trying to collect back wages, claiming they were improperly paid. If an employer does not have records for their hourly employees, whatever records an employee has are acceptable. It is up to the employer to prove the employees wrong.

“In an environment where plaintiff’s lawyers are targeting employees through television/radio ads, direct mailing, and even harassing telephone calls, companies need to be more informed on employment laws and how to properly protect themselves than ever before,” says Kubal.

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### **Keeping Proper Records**

One of the most important ways for a company to protect itself from wage and hour lawsuits and be more proactive managing its labor costs, is through proper record keeping. If records are not accessible and accurate, producing the necessary documentation to protect the organization is hard to do.

With the number of wage and hour lawsuits on the rise the importance of maintaining accurate employee work records is more important than ever before. However, with many companies managing their time and attendance manually, producing the necessary records and vital employee information when it matters most becomes quite challenging. As a result, company’s are unable to properly protect and defend themselves from labor litigation.

Most companies today track employees worked and non-worked hours manually. Manually processing this critical data is error prone, complicated, time consuming and difficult to manage. The majority of companies using manual process tend not to keep any records of salary employees' work hours. In a number of wage and hour lawsuits where the employer could not produce accurate records the employees were awarded millions of dollars in back wages.

With labor related litigation on the rise, keeping accurate and accessible records on your employees is crucial to protecting your business and bottom line. A common mistake of misclassifying an employee, made by many major corporations and small business alike, could literally put a company out of business.



Al Klein, a respected attorney of Rodi, Pollock, Pettker, Galbraith & Cahill serving businesses in Los Angeles for over 30 years, said, "one of the biggest problems is employers tend to make employees exempt, pay them salary, and do not keep track of their time."

Klein highly recommends that employers keep track of all their employees' time, exempt and non-exempt. He states, "It's wise for employers to keep track of both their salaried and hourly staffs worked and non-worked hours. Many employers, because they pay an employee a salary feel they do not have to pay them overtime because they are exempt. Classifying employees is a very intricate process and consulting a labor law attorney is wise to do to protect your organization... In most cases employees win cases because they are in fact non exempt employees."

### **Basic Records You Must Maintain**

Over the last few years employees have filed a record number of lawsuits against employers trying to collect back wages, claiming they were improperly paid. In cases where the employer could not produce accurate records or were in violation of wage and hour laws the employees were awarded millions of dollars in back wages.

In a lawsuit, if an employer does not have records for their hourly employees, whatever records an employee has are acceptable. It is up to the employer to prove the employees wrong. When an employer does not have the record, according to Klein, "You have to look for accredited external records. In these cases, it's almost never litigated because a company is almost guaranteed to lose. If a company loses, they are required to pay for the prosecuting attorney fees, their own attorney fees, any back wages owed to their employees and in some cases penalties imposed by the Department of Labor."

The Department of Labor may recover back wages, either administratively or through court action, for the employees that have been underpaid in violation of the law. Violations may result in civil or criminal action.

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The Fair Labor Standards Act (FLSA) does require that employers keep accurate records of hours worked and wages paid to employees. Any organization that has had a wage and hour violation filed against them by an employee or ex-employee knows producing the necessary documentation to protect the organization is hard to do if the records are not accessible and accurate.

The following is a listing of the basic records that an employer must maintain:

- 1) Employee's full name and social security number.
- 2) Address, including zip code.
- 3) Birth date, if younger than 19.
- 4) Sex and occupation.
- 5) Time and day of week when employee's workweek begins.
- 6) Hours worked each day.
- 7) Total hours worked each workweek.
- 8) Basis on which employee's wages are Regular hourly pay rate.
- 9) Total daily or weekly straight-time earnings.
- 10) Total overtime earnings for the workweek.
- 11) All additions to or deductions from the employee's wages.
- 12) Total wages paid each pay period.
- 13) Date of payment and the pay period covered by the payment.

Implementing an automated time and attendance solution is an investment to protect your company for many years to come. A solution that keeps accurate records and makes critical information easily accessible can keep you out of court.

An automated time and attendance solution eliminates the error prone task of manually calculating employees worked time. With a few clicks of a mouse employers can accurately produce the records and times that are in question. As well as assisting you with compliance, an automated solution is a tool for managers to proactively monitor their workforce to make sure the company's pay policies are being enforced fairly and accurately.

### **What Is Automated Time & Attendance?**

The American Payroll Association reports that manual calculations of employee work hours typically result in thousands of dollars in lost profits over the course of a year. When you add in the cost of defending and potentially losing a wage and hour lawsuit, loss in profits can total in the millions. The solution many companies have turned to is an automated time and attendance system.

While the ramifications of not incorporating an automated time and attendance solution may be clear, the definition of what exactly is "Time and Attendance" remains somewhat of a mystery for many. In short, time and attendance normally refers to solutions that helps collect, monitor, and control employee labor expenses.

Historically labor costs are one of the largest expenses a company incurs and yet collecting the related data is still a manual process. Once a company institutes an automated time and attendance system, with only a few clicks of a computer mouse, they can now proactively manage their labor costs.

Cheryl Abrazado of Mililani Golf Club Restaurant says, "The old way of using time cards and calculating each in-out was a four-hour chore. With an automated system it now takes me no more than five minutes to process my payroll. It's so easy for everyone to use and I love how simple it is to customize my own reports."

Time and attendance systems have shifted dramatically over the years to stay in alignment with the ever changing business landscape. Systems have become advanced enough to provide a solution for literally every need of an organization, regardless of size and number of locations. Automated capabilities can range from being able to zero in on an employee's time spent working on specific projects and tasks to generating an endless combination of highly customized reports and layouts.



What used to constitute as effective time and attendance solutions, such as battery operated and mechanical time clocks, have been replaced by more advanced and efficient methods of collecting and sorting employee data. Today companies can choose between biometric terminals, which increases security identification, PC programs for companies whose employees perform their daily functions on a PC, and for remote employees, who are constantly on the go, there are inexpensive mobile devices that can easily track employee hours, jobs and a host of other functions.

By significantly reducing the time it normally takes to process payroll, Patricia Camero, who handles the human resource department for Ann Pearl Nursing Facility, says, "From being user friendly to providing reports that previously were not available to us, the automated system we installed allows us to save hours in overtime, which saves us a significant amount of money."

### **Automation & Your Bottom Line**

According to studies from the Robert Half Agency and the American Payroll Association (APA), employee "time theft" -- when employees clock in/out early or late or take long lunches or breaks -- exceeds 10 minutes per day, per employee. The study estimates that manual timecard computation errors can cost 1% to 8% of your annual gross payroll. You may not know it using the honor system, but the information will definitely be visible if you choose a right time and attendance system.

Many organizations who have implemented an automated time and attendance solution have commented that not only does it assist in making sure the organization is in compliance it can also save tens of thousands of dollars by eliminating the human error factor.

Let's say you use 3% as a cost savings basis and your annual payroll is \$1,500,000.00, automating this process using conservative figures an organization can save \$45,000.00 over the course of 1 year. Over a five year period this can add an additional \$225,000.00 to your bottom line. Most organizations calculate the pay back period for implementing an automated time and attendance solution to be between 9 and 18 months.

This doesn't take into account the ability to proactively manage your overtime and control your labor costs. An automated time and attendance solution is one that truly pays for itself in a short amount of time.

Whether your company has five employees or 5,000 employees, with the right choice and proper implementation, automated time and attendance systems can quickly become one of your company's strongest measures for proactively managing labor costs, handling wage and hour lawsuits, and maximizing profit.

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***About NOVAtime Technology, Inc.***

With corporate offices located in Monterey Park, California, NOVAtime is a leader in the time and attendance and workforce management space. Known for their scalable software technology, many of the best-managed companies in the world have chosen NOVAtime as the preferred time and attendance and workforce management software provider. For more information on NOVAtime visit [www.novatime.com](http://www.novatime.com) or call 877-486-6682.