

## After-Hours Use of Electronic Devices: Avoiding and Defending Overtime Pay Claims

### Defining Working Time, Leveraging Defense Tactics, Defeating Class Certification, Proactively Avoiding Claims

Webinar

02.25.2025 | 1:00-2:30 PM EST

Event Sponsor: Strafford

This CLE course will guide employment counsel on practical measures to protect against overtime pay claims resulting from employees' increased use of electronic devices to perform work-related tasks after hours. The panel will examine the most recent developments regarding the after-hours use of electronic devices, review situations involving electronic devices and "working time," and provide approaches for defeating claims.

#### Description

The explosion of smartphone and tablet use has eased the way for employees to have continuous remote connectivity to the workplace, presenting yet another liability threat for employers already battling an increase in overtime pay claims.

If an employee can show the employer had actual or constructive knowledge of work performed, an employer can owe overtime pay for work never requested from a worker.

Employees who prevail in overtime pay claims may be entitled to substantial damages, including back wages plus interest, liquidated damages, and attorneys' fees and costs from the employer. These damages can grow exponentially in the face of a collective action.

Listen as our authoritative panel provides employment counsel with practical guidance for avoiding and defending overtime pay claims springing from work performed outside the workplace and after work hours via electronic devices. The panel will assess current case law as it applies to the unique claim of electronic overtime pay and provide techniques for defending against individual and collective actions and avoiding claims.

#### Outline

1. Latest developments regarding employee connectivity via electronic devices and overtime pay claims
2. Compensability of off-duty work
  - Definition of work

- De minimis doctrine
  - Portal-to-Portal Act
  - On-call time
- 3. Employer defense
  - Individual claims
  - Collective action claims
- 4. Best practices to avoid overtime pay claims

## Benefits

The panel will review these and other principal issues:

- How does continuous connectivity of employees impact the definition of working time and compensable time?
- What are the defenses to electronic overtime pay claims?
- What are best practices to avoid claims of electronic overtime pay?
- What tactics work to defeat certification in collective actions when employees claim a group of employees is entitled to electronic overtime pay?

## Speakers:

- Stephen E. Fox, Partner, Sheppard Mullin
- Susan Fahey Desmond, Member, McGlinchey

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## Attorneys

Stephen E. Fox

## Practice Areas

Labor and Employment