

## *The new Timesheet app for iPhones: What it really means*



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The U.S. Department of Labor in May introduced its Timesheet app for the iPhone and iPad. Management-side law firms immediately posted to blogs, opining on its significance and its potential impact on minimum wage and overtime litigation under the Fair Labor Standards Act.

An employee may use the app to record the time he/she works each day and the hourly rate of pay received. At the end of each day, the app calculates total number of hours worked and gross amount that should be paid hours recorded. It provides a summary at the end of each week, and permits the user to email the report to any address chosen.

However, the app will not calculate or identify whether the time taken for a short break is compensable or not. It just adds up total minutes worked each day. Therefore, if the user inputs a 14-minute break, which might otherwise be compensable, the app will not include that 14-minute period as time worked. A break 20 minutes or longer would be required before that time may be deducted under the FLSA. The length and compensability of breaks is frequently disputed in wage and hour litigation, so the app is not helpful in that regard.

The app is fixated on straight hourly work-

ers and their compensation. It is unable to calculate overtime that might be due to a salaried, non-exempt employee. The app does not calculate the half-time premium a salaried employee would be entitled to when working in excess of 40 hours in a week.

The app does not allow users to include tips, shift differentials or commissions, so additional pay cannot be calculated. Finally, if the employee neglects to enter time for some extended period – about a week, in my test case – it does not seem possible to go back and input missing data.

The practical effect of the app is this: The FLSA requires employers to keep accurate records of hours worked. If employers have no formal record-keeping system, this app may be good evidence if employees believe they have been shorted time or money. It may also be useful if an employee alleges the official time clock does not accurately reflect the actual hours worked because the employee works off the clock. With its limitations, the app is not helpful in calculating the amount of overtime compensation that might be due. It may not be useful in calculating time for hourly workers, as there may be no independent verification of the preciseness of starting and stopping times, substantially – or enough for a lawsuit – from an employer's records.

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