



## Employee Timekeeping Why Worry?

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*Are you protected against  
CO\$TLY wage and hour  
claims?*

Employee timekeeping and paying employees accordingly seems pretty straightforward. And, employers often assume that allowing a short cut or being “flexible” with timekeeping will have little consequence. However, state and federal agencies are cracking down on wage and hour compliance, and the legal fees and penalties incurred due to timekeeping errors can be incredibly costly.

It is the responsibility of the employer to show they accurately recorded time and paid non-exempt employees appropriately. So, short-cuts and flexibility, while tempting, may put your company in jeopardy.

Save yourself the costly headaches of a wage and hour lawsuit by paying attention to these tips:

**Early Clock-In.** While you do not have to pay employees who voluntarily arrive before or stay after their shift, if an employee files a wage claim for unpaid wages, you will have to prove that the employee performed no work during that time. To lessen the risk of a claim, implement a policy that does not allow employees to clock in early or clock out late unless they are actually performing work and the time is pre-approved by their supervisor.

**Waiting to Clock-In.** Employees at McDonald’s recently filed a lawsuit for unpaid wages and won. The company uses software that monitors the ratio of labor costs as a percentage of revenue. When that ratio

climbs above a target, workers are forced to wait around before they can clock in for their shift. The court held that these workers were under the “control” of McDonalds during this time and should have been paid. To avoid a costly suit for unpaid wages, evaluate your timekeeping practices to ensure employees are paid for any time they are under your control.

**Time Punch Rounding.** For enforcement purposes, the California Labor Commissioner will accept the practice of computing working time by rounding to the nearest five minutes or one-tenth or one-quarter of an hour. However, the rounding must compensate the employees properly for all the time they actually worked over a period of time. It takes time and effort to ensure that rounding properly compensates employees; therefore, the best practice is to use actual time punches rather than rounding when calculating time worked.

**Allowing Off-the-Clock Work.** Employees may think they are doing their employer a favor by clocking out and then finishing up their work for the day. “It’s just a few minutes. And, it keeps my employer from having to pay me overtime,” is often their reasoning. Once again, it is the responsibility of the employer to pay employees for all time worked. Publish a clear policy that does not allow any work activity to be done off-the-clock so employees are clear on your expectations. And make sure your supervisors enforce the policy consistently.

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**Getting Dressed into Uniform at Work.** If you require employees to wear certain clothing or equipment and you control how, when, and where the employee puts on or takes off the uniform or equipment, then the time getting dressed is compensable. If you have any questions regarding your specific situation, we recommend speaking to legal counsel to be sure that you are correctly accounting for this time.

**Accurately Recording Time.** Time records must reflect the start and end times for an employee's shift and meal periods. Allstate Insurance Company provides a cautionary tale: Their field adjusters, who were paid according to a pre-determined daily schedule, successfully brought a lawsuit for unpaid wages, including overtime. A pre-determined schedule that pre-populates a timecard is a risky practice and will provide little protection if you must defend your timekeeping practices in court.

Require all non-exempt employees to create accurate daily time records, showing when they begin and end each work period and including in and out times for meal breaks. You must keep time records and other payroll records for at least four years after the calendar year in which they originate.

Apply these tips and conduct regular timecard audits to help protect your company from costly wage and hour claims. Include your time recording policy in your employee handbook, new employee orientation and review it at least annually with your employees.

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