



Federal Appeals Court Finds Employees Must Cite Specific Facts for Overtime Claims

Client Advisories

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In a case recently decided by the federal appeals court for the Delaware Valley region, the court dismissed a claim for overtime because the employees did not include enough specific facts as to what overtime was not paid. In doing so, the Third Circuit Court of Appeals rejected the employees' claims of frequently or regularly being left out of overtime payments. Although the case does not alter the law as to overtime, it does now require employees to do more than generally plead they were not paid overtime, as specific instances should be included.

The employees in *Davis v. Abington Memorial Hospital* sued their employer under the Fair Labor Standards Act ("FLSA"), claiming they were not paid overtime. The case involved a group of nurses and other patient-care professionals who sued under the FLSA and other state and federal employment statutes, alleging that Abington's timekeeping and pay policies failed to properly compensate them for all hours worked. The plaintiffs based their claims on general, not specific, allegations of failure to make overtime payments, which the employees alleged was in violation of the FLSA. However, not one employee alleged that there was a single, specific week where they worked over 40 hours and were not paid overtime. Their allegations were simply that they typically worked over 40 hours and frequently worked overtime, and relied primarily on the employer's policies.

Despite these general allegations, both the lower court and the appeals court held that the employees must allege that they actually worked unpaid overtime time during a week when they actually worked at least 40 hours. That failure to properly plead their case with any real specificity caused the Court to dismiss the claims.

While the case is a positive one for employers, the Court did explain what employees must plead in order to have a possible claim of an FLSA violation. If sued, employers should look for proof from plaintiffs - in particular, specific allegations in the complaint - that they actually worked 40 hours during a workweek, worked extra hours during that 40-hour workweek, and were not compensated for the extra hours over 40 they worked

during those 40-hour workweeks. Without these specific allegations, employers should seek to dismiss these kinds of complaints, saving them from the burden and expense of defending these types of lawsuits.

If you have any questions about this ruling, overtime issues in general or other labor and employment matter, please contact any member of the **Labor and Employment Department of Archer** in Haddonfield, N.J., at (856) 795-2121, in Philadelphia, Pa., at (215) 963-3300, in Princeton, N.J., at (609) 580-3700, in Hackensack, N.J., at (201) 342-6000, or in Wilmington, Del., at (302) 777-4350.

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