

The Importance of Keeping Accurate Employee Time Records

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Let's face it—as an employer, keeping employee time records may seem onerous and burdensome. Yet, maintaining accurate time records may determine whether or not an employer can effectively defend itself against employee claims under state and federal wage and hour laws. A recent ruling in a wage and hour case by The United States Court of Appeals for the Fifth Circuit reaffirms an employer's need to keep accurate employee time records. This blog post explores this ruling and outlines its impact on employers in New Jersey.

Federal Appeals Court Ruling Underscores Need for Proper Employee Time Records

In [*U.S. Dept. of Labor v. Five Star Automatic Fire Protection LLC*](#), a fire-sprinkler installation and service company was sued by its workers for failing to pay wages. The employees alleged that their time was not properly recorded, resulting in the employer failing to properly pay them.

The Five Star case affirmed earlier case law indicating it is an employee's burden of proof to demonstrate that the employee was improperly paid. However, the Fifth Circuit Court found if an employer fails to maintain proper records or if the employer's records are determined to be inaccurate or inadequate, an employee need only show by "just and reasonable inference" that the employee was not paid correctly. This legal standard is based on the view that an employer should not benefit from its failure to keep required payroll records.

In Five Star, the employer's time records were found to be incomplete and spotty. Employees gave testimony of time spent traveling between worksites and work before and after their regular shifts, and, that the supervisor instructed them to not record this time. The employer's time records did not include time spent traveling and pre and post-shift working time. The employees testified that they worked during this time, and the employer argued that employee testimony was unreliable and varied. The Court ruled that the employee testimony was sufficient as evidence of the hours that the employees worked, rejecting the employer's claim that employee testimony was deficient. The Court explained in its ruling that an estimate of the damages against the employer, based on employee testimony, was allowable under the law.

New Jersey Wage and Hour Laws

The U.S. Court of Appeals for the Third Circuit, which includes New Jersey, follows the same standard as the Fifth Circuit regarding the evidence of employee time records under the Federal Fair Labor Standards Act. Additionally, New Jersey State Wage and Hour Law complies with Third Circuit case law, establishing a wage rate and overtime rate for all workers covered by the Act.

Employers in New Jersey should properly record and preserve employee work hours in order to defend against potential employee claims of unpaid wages. Although there is no set form by which employers must keep records, worked hours and wages data must be accurately recorded. Moreover, employers are required to compensate non-exempt employees that perform work outside of regular work hours for that time in addition to maintaining consistent records for those hours. Without the proper records, courts will consider and may rely on, employee testimony for time worked and employer claims that such testimony is inaccurate may be futile.

TAKEAWAY: Employers should be mindful to maintain proper documentation of employee hours because it is critical to defending against wage and hour claims.

If you are an employer and need help understanding proper documentation of employee work hours or any employment laws, contact [Stephanie Gironda](#) or another member of the Wilentz [Employment Law](#) Team.

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