

BUSINESS

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How you can make your donations go far. 2

Foreclosure relief is the topic at a housing forum in Washington.

DOW

Close 298.76
9,025.77

S&P 500

Close 33.63
909.70

NASDAQ

Close 62.43
1.5

ASK A LAWYER

Workers are due overtime based on classification

Q. Is our business required to pay overtime to salaried employees?

Possibly. Whether an employee is paid weekly or hourly is not conclusive with regard to overtime pay. Whether an employee is owed overtime is determined based upon whether he or she is an exempt (from the overtime laws) or non-exempt employee.

The white-collar exemptions from the overtime laws cover professional, executive and administrative employees. Professionals must have advanced knowledge acquired by a prolonged course of specialized intellectual study, as distinguished from a general academic education.

Examples of professionals not entitled to overtime are attorneys and physicians. Executives not entitled to overtime are those whose primary duty consists of managing the enterprise or a recognized department of the enterprise, who regularly direct the work of two or more employees, who have the authority to hire or fire other employees, and who devote less than 20 percent of their workweek to non-exempt work.

Administrative employees are defined as those whose primary duty consists of performing office or non-manual work directly related to management policies or general business operations. They must regularly exercise discretion and independent judgment and also devote less than 20 percent of their time to non-exempt work.

There are other positions that also are not entitled to overtime. For example, outside salespeople and limousine drivers are exempt from the overtime laws.

Regardless of how often you pay your employees, entitlement to overtime is calculated on the basis of each workweek standing alone; hours may not be averaged over two or more work weeks. All non-exempt employees are entitled to overtime for each hour worked in excess of 40 hours per week. It is calculated at a rate of 1½ times the employee's regular hourly wage.

Wage and hour litigation is

Misclassifying employees as exempt from the overtime laws can have devastating financial consequences.

increasing dramatically, and overtime claims are often well-suited for treatment as a class action. Misclassifying employees as exempt from the overtime laws, therefore, can have devastating financial consequences.

Steven Adler heads the employment department of Cole, Schotz, Meisel, Forman & Leonard PA, the largest law firm in Bergen County. He can be reached at sadler@coleschotz.com, or 201-525-6273. This is not intended to be legal advice, which can be given only after the attorney understands the facts of a particular matter and the goals of a client.

Do you have a business question for a lawyer? Send it to BusinessNews@northjersey.com.