



## Department of Labor Empowers Household Workers with iPhone App

In 2011 the U.S. Department of Labor (DOL) launched a new mobile application for iPhones and iPads especially designed to assist hourly employees with keeping track of their work hours independently from their employers. The employees would have a personal copy of time worked, including overtime documentation, at their fingertips.

The application is easy to use and is available in English and Spanish. Employees enter their start, end and meal/break times daily and the app will calculate hours worked per week and overtime. The app also allows workers to add notes and email a summary of work hours as an attachment. The Department Of Labor's website can be accessed from the app to retrieve the latest rules governing work place wages and overtime: [dol.gov/whd](http://dol.gov/whd).

For workers without iPhones or iPads there is a printable version of a work hours calendar on the DOL website to conveniently keep track of work hours: [dol.gov/whd/FLSAEmployeeCard/calendarR5Web.pdf](http://dol.gov/whd/FLSAEmployeeCard/calendarR5Web.pdf). The DOL plans to expand the app to Blackberries and Androids in 2012 and other updates will follow.

### What Does This Mean for Household Employers?

This ground-breaking app will provide non-exempt workers the ability to easily create and store their own time records. In the case of a wage and hour dispute the onus is on the employer to produce written records of an employee's time. If the employer does not have records the court can use an employee's records as documentation of hours worked when determining the settlement.

If you're thinking, *I pay my employees a salary so there is no need to keep track of hours. This doesn't apply to me*, you are wrong. The DOL considers household employees non-exempt from the Fair Labor Standards Act, which means they must be compensated at time and a half their hourly rate for overtime worked. For live-out employees overtime is over 40 hours worked per week, for live-in employees it is over 44 hours worked per week. Some states have even stricter guidelines for calculating overtime (e.g. in California overtime is calculated any time over 8 hours worked in a work day).

So now you're thinking, *I give my employees a day off the next week if they work more hours the week before. Or I buy them a gift certificate for a massage. And sometimes I even let them use*

*my beach house for the weekend!* While your employee may appreciate it now, the DOL is going to be unmoved by how nice you were when your employee files a wage and hour complaint. It is in violation of wage and hours laws to compensate your employees for overtime with time off or gifts in lieu of wages.

### Changing Times

Households that are busy and complex enough to need staff are often moving at break-neck speeds with little consideration or concern given to the possibility of employees' lost wages. Herein lies the conundrum: why do employers whose very fortunes are tied to positive public images threaten those fortunes by not proactively managing their personal household staff? Case in point: Hewlett-Packard CEO and one-time California gubernatorial candidate Meg Whitman or Washington Redskins owner Dan Snyder, both of whom turned into PR disasters. The culture of wealth tends to offer employers a feeling of invincibility, shielded by expensive lawyers and the dispassionate belief that household employees rarely dispute wages.

But the times they are a-changing. An explosive growth of the organized household worker movement on a national and state level (see: [domesticworkers.org](http://domesticworkers.org), [domesticworker-sunited.org](http://domesticworker-sunited.org), [chirla.org](http://chirla.org) and [casademary-land.org](http://casademary-land.org)) has caused monumental shifts in state laws affecting household workers, e.g. the Domestic Workers Bill of Rights in New York. Household workers are becoming more vigilant of protecting their rights and in increasing numbers are filing wage and hour disputes against their wealthy and powerful employers, as evidenced by the worker protests and subsequent lawsuit *Serralta v. Kahn* in California ([las-elc.org/news-serralta](http://las-elc.org/news-serralta)). The new DOL iPhone app is just the latest way in which workers are empowered to ensure they are treated fairly.

### The Smart Solution

Households that employ staff should seek professional guidance from an expert with experience to deal with the delicate and often complicated household staffing issues. Employers must take a proactive stance in this new era or risk finding themselves on the wrong side of a lawsuit or public image debacle. By hiring a firm that specializes in the unique combination of risk management and human resources of household employees, employers can wisely lower their financial risk and exposure.



### CASE STUDIES

1. A nanny is paid a salary of 35k per year in biweekly paychecks of \$1,346.15 each. One week she works 55 hours, but the next week she works only 25 hours. Since the total equals 80 hours for the pay period the employer does not have to adjust her pay for overtime. True or false?
2. A housekeeper is paid \$14 per hour. Her employer should just pay her an even \$560 each week since she typically works 40 hours per week, give or take, and it's too much trouble to keep track of hours and calculate to the penny. True of false?
3. An employer asks his driver to be on duty during his normal daily hours and also work at night during the week the employer's family from out of town is visiting. The employer can compensate the driver for the extra hours by buying him dinner at an expensive restaurant. True of false?

### Answers:

1. F: Overtime is calculated by the work week, not by the pay period. The nanny is owed overtime pay for the week she worked 55 hours regardless of how many hours she works the following week.
2. F: It is imperative to keep time records and calculate pay accordingly. Just because you are not counting hours doesn't mean your housekeeper isn't.
3. F: Overtime must be compensated in wages, even if the dinner costs more than the driver is owed in overtime.

