

## Wage Theft

Wage theft is the denial of wages or benefits that are owed to a worker. This can occur in many ways, including not having hours properly calculated, having unlawful deductions taken out of a paycheck, not being paid overtime rates, and more. There are many tactics an employer can use to avoid compliance with wage and hour laws in Massachusetts and companies should be held accountable for all violations – whether they were accidental or intentional.

Under Massachusetts state and federal laws, employers are required to pay overtime wages to a nonexempt employee for each hour worked beyond 40 hours per week.

### Resolving Wage and Hour Dispute Include:

- Overtime
- Commissions and/or bonuses
- Employee meal breaks
- Misclassification of status (exempt vs. non-exempt)
- Collection of wages after termination
- Docked pay
- Payment of tips
- Pay is less than state or federal minimum wage
- Compensation for employee travel
- Child labor
- Vacation or sick days

It is important for employees to understand that there are exemptions for certain types of employment under **Massachusetts law (M.G.L. 151 Section 1A)** and federal law. The following are the main overtime exemptions applied by employers:

- Executive employees, including management and directors.
- Administrative employees who provide support for business operations or management.
- Professional employees whose work requires advanced knowledge or education or involves particular talent in an artistic or creative endeavor.
- Computer employees who engage in development and operation of computer systems or programs.
- Outside sales employees who receive a certain amount of compensation and customarily work away from the place of employment obtaining sales contracts.
- Tipped employees such as servers and bartenders

Too many employees believe that simply because their job title fits under one of the above categories that they have been properly classified as exempt. However, having a certain job title is not enough to make an employee exempt from overtime pay and the actual job duties must line

up with the job title for an exemption to be appropriate and lawful. Many employers misclassify employees as exempt when their job duties do not actually fit under any exemption and, therefore, unlawfully deprive them of overtime pay.

The following are some examples of jobs that are commonly misclassified as exempt from overtime:

- Retail assistant managers
- Loan underwriters
- Insurance underwriters
- Automobile damage appraisers
- Bookkeepers and fund accountants

In many cases, employers misclassify employees and wrongly assume that they are exempt from overtime pay. Unpaid overtime can add up quickly and some employees have missed out on thousands of dollars in pay. A Massachusetts employment lawyer can help you determine how much your employer owes you due to wage and hour violations and will assist you in seeking the compensation you deserve.

Such employees are regularly classified as executive, administrative, or professional positions when, in reality, the job descriptions do not involve a high enough level of management, support, or educational requirements to be classified as such. Employees in these positions also regularly work long hours and may be deprived of a significant amount of overtime pay if they have been misclassified.

#### **Other Common Wage Violations:**

Not every wage violation case centers around overtime pay. The following are brief descriptions of other ways that employee may be denied their rightful wages:

- **Independent contractor misclassification**
- **Miscalculation of hours worked**
- **Wrongful deductions - Unused vacation**
- **Meal Break**