



HR CORNER

FEES & BURGESS, P. C.



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Employees Sue AT&T for FLSA Violations Seek \$1 Billion in Damages

Fees & Burgess, P.C.,
Emphasizes:

In two class action lawsuits filed in December, approximately 5,000 current and former AT&T employees allege that the company misrepresented their job duties and improperly claimed overtime exemptions under the Fair Labor Standards Act (FLSA). These employees, all First Level Managers, allege that AT&T wrongly reclassified employees from non-exempt to exempt, thereby profiting from decreased overtime costs. The facts of this case, as alleged in plaintiffs' complaint, demonstrate the crucial need for employers to carefully consider overtime exemptions and to carefully consider changes in employee classifications.

General Civil Litigation

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Police Civil Liability
Defense

Employment Law &
Litigation

Construction Litigation

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Government Contracting

Insurance Defense

Railroad Law

Corporate Counsel Services

According to the complaint, plaintiffs are First Level Managers working in various departments throughout AT&T. As managers, their duties involved supervision of technician crews. Often, the technicians performed physical maintenance of phone lines, including repair and maintenance of residential and business phone lines. Plaintiffs were required to work approximately two hours longer than the technicians whom they supervised, to complete clerical tasks. As a whole, plaintiffs' work included passing instructions to the technicians from higher levels of management, performing clerical paperwork tasks, and performing safety and quality inspections following detailed procedures provided by AT&T.

Until December of 2007, plaintiffs were classified as non-exempt employees and paid overtime for any hours worked in excess of 40 hours per week. These job positions generally required approximately 10 hours per week of overtime or more. In addition, employees were "called-in" to work outside of their normal 40-hour weekly schedule, and AT&T compensated them for the overtime associated with these additional hours. In December of 2007, the company re-evaluated its overtime policies and determined that the First Level Managers were exempt employees under the FLSA, and it no longer provided plaintiffs with overtime compensation. Plaintiffs allege that this re-classification had no legitimate basis and that it was contrary to FLSA requirements.

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Employees Sue AT&T for FLSA Violations *(Continued from page 1)*

Specifically, plaintiffs note that their job duties did not involve independent discretion or authority. Instead, plaintiffs simply divided the assigned tasks among the technicians assigned to them, based on a pre-determined workload designated by higher-level management officials. Plaintiffs had no authority to discipline the technicians, and they had no authority to hire, fire, or determine technician rates of pay. Finally, the safety inspection procedures performed by plaintiffs involved a simple checklist that asked yes-or-no questions, which the managers had no authority to adjust.

Because of the alleged misclassifications, plaintiffs seek re-payment of the overtime compensation missed since December of 2007. Considering the large number of plaintiffs, and considering the large number of alleged overtime hours worked (approximately 10-20 per week per employee), the potential liability to AT&T is exorbitant. Plaintiffs specifically seek \$500 million dollars in damages in two separate cases – one filed in federal court in Atlanta, and one filed in federal court in San Francisco – totaling \$1 billion in requested damages. Certainly, this case is only at its beginning stages and these allegations have not been proven. However, the issues surrounding this lawsuit are a clear warning to all employers regarding classification of employee exemption status. Whether or not the allegations are true, it is an indication that employees are paying attention to their FLSA rights and that exemptions continue to be vigorously contested.

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Affirmative Action Plans

Please remember that the Obama administration has generally stepped up enforcement in most agencies. This is a good time to ask if you are compliant with Executive Order 11246 and have a compliant Affirmative Action Plan, if you have 50 or more employees and have \$50,000 or more in government contracts.

For more information, please call (256) 536-0095.

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**Fees & Burgess, P.C.—Calendar of Events**

Fees & Burgess, P.C., is proud to present, or participate in the presentation of, the following upcoming seminars:

March 24, 2010 —Huntsville, Alabama; 11:30 AM - 1:00 PM**[International Commercial Contracting: Identifying, Avoiding, and Managing Risk Areas](#)**

This part two of a four-part course, presented by Allen L. Anderson; Jeffrey L. Roth; Leah M. Green; and Ryan G. Blount of Fees & Burgess, P.C., provides a practical introduction to international contracting, focusing particularly on risk identification and avoidance. Attendees will gain an understanding of the laws and provisions governing international agreements, and how international contractual relationships differ from domestic counterparts. The course will provide a solid grasp of the concepts, theories, and practical considerations necessary for drafting, interpreting, and negotiating international contracts.

March 31, 2010—Webinar; 11:00 AM - 1:00 PM CST**[Negotiation and Resolution of Federal Government Contractor Claims under the Contracts Disputes Act Webinar](#)**

Attendees of this program will learn how to prepare, negotiate, and submit contract disputes to the government for resolution under the Contract Disputes Act of 1978, as well as options for appealing claims denied by the government. This course is designed to meet the requirements of the National Contract Management Association's (NCMA) certification programs for 1 hour of CPE.

April 9, 2010—Las Vegas, NV**[Special Session: Contracting with the Customer: What the EMS Executive Needs to Know](#)**

Without a doubt, negotiating with OEMs is one of the biggest challenges facing the EMS executive. What needs to be covered in the contract? Is your company protected? What should you do if there is a dispute?

Registration fee is: \$300 for IPC members; \$400 for nonmembers; and \$240 for attendees/graduates of the IPC EMS Program Manager Training and Certification program.

Visit www.IPC.org/EMS-Contracting to register. Be sure to check the box on your registration form to also register for free APEX EXPO Exhibit Hall registration.

To find out more about IPC APEX EXPO, go to www.IPCAPEXEXPO.org.

April 12, 2010—Florence, Alabama; 8:00 AM - 4:00 PM**[Employment Law Survival Training for Managers: 10 Key Areas of Legal & Practical Knowledge For Successful Leadership](#)**

This daylong program presented for, and sponsored by the University of North Alabama, is a must for training managers and supervisors to recognize and deal with challenging employee issues that arise daily in the workplace. Attendees will learn key aspects of critical issues and how to work with human resources within existing company policies to address and resolve them.



Fees & Burgess, P.C.—Calendar of Events
(Continued from page 3)

April 20, 2010—Birmingham, Alabama; 8:30 AM – 4:30 PM

[2010 FMLA Master Class for Alabama Employers: Overcoming Compliance and Employee Leave Challenges](#) — This program, presented for, and sponsored by M. Lee Smith, will help you become even more proficient in FMLA administration and handle top management's and your employees' questions with even greater confidence.

May 5, 2010 —Webinar; 12:00-1:00 PM CST

[Labor/Human Resources Law Update](#) — Presented by Jeffrey Roth and Allen Anderson, this webinar will focus on current and pending legislation affecting employers and Human Resources employees, with a focus on:

- Military Leave under new FMLA regulations
- Genetic Information Nondiscrimination Act
- Employee Free Choice Act
- Healthy Families Act
- Employment Nondiscrimination Act (ENDA)
- Equal Remedies Act
- Federal Oversight, Reform, and Enforcement of the WARN Act
- Protecting Older Workers Against Discrimination Act
- Arbitration Fairness Act of 2009
- Firearms in Parking Lots
- New Notices for the Children's Health Insurance Program Reauthorization Act
- Recent Independent Contractor requirements
- Update on National Labor Relations Board
- Supreme Court changes to retaliation Laws

All Human Resources managers, professionals, administrators, company representatives, and supervisors dealing with employment issues should attend.

If you would like more information on these and other seminars, please go to www.feesburgess.com, or contact seminars@feesburgess.com.



SPEAKERS

Fees & Burgess, P.C., provides speakers, training programs, seminars, and webcasts for various trade associations; business groups; and clients. For information regarding a program, contact newsletters@feesburgess.com

NEWSLETTERS

Fees & Burgess, P.C., also publishes *F&B Quarterly Bytes*, focusing on multiple practice areas; and *F&B SCM Memo*, focusing on the supply chain management industry. To receive any of these e-newsletters, please e-mail newsletters@feesburgess.com with your contact information.

To remove your name from our mailing list, please e-mail newsletters@feesburgess.com.

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HR Corner should not be construed as legal advice or a legal opinion on any specific facts or circumstances. The contents are intended for general information purposes only. Anyone needing specific legal advice should consult an attorney.

“No representation is made that the quality of legal services to be performed is greater than the quality of legal services performed by other lawyers.”

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