

“He said, she said” no longer cuts it: Seventh Circuit clarifies proof required for overtime claims

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A recent decision from the U.S. Court of Appeals for the [Seventh Circuit](#) offers a welcome measure of protection for employers in overtime claims brought under the Fair Labor Standards Act.

The court’s opinion highlights the need for employees to provide specific and detailed evidence when pursuing claims for unpaid overtime, even when the employers fail to maintain accurate time records. But it is also a valuable reminder for employers about the importance of diligent recordkeeping, even if the ultimate burden of proof remains with the employee.

[Osborn v. JAB Management Services, Inc.](#)

Tara Osborn, a technical support specialist working remotely, brought suit against her employer, JAB Management Services, Inc., alleging that it failed to pay her overtime in violation of the FLSA. Despite setting her own flexible schedule, Ms. Osborn failed to track her hours worked in excess of 40 each week. In her suit, she claimed to work 10-hour days and 15 weekly overtime hours but provided only vague testimony to that effect.

JAB filed a motion for summary judgment asking the court to dismiss her claims because she did not provide enough specific evidence to prove that she actually worked overtime hours. The company argued that her claims were vague and lacked the necessary details and documentation to support her FLSA claim.

A federal court in Illinois relied heavily on the Supreme Court’s decision in [Anderson v. Mt. Clemens Pottery Co.](#) when analyzing Ms. Osborn’s claim. *Mt. Clemens* states that when an employer fails to keep accurate time records, an employee can rely on reasonable estimations and inferences to prove the amount of overtime worked, but the burden of proving liability remains with the employee at all times.

According to the court, Ms. Osborn’s vague and inconsistent testimony regarding her hours worked, coupled with her failure to comply with local court rules regarding the presentation of evidence, proved fatal to her case. Ms. Osborn then appealed to the Seventh Circuit.

The Seventh Circuit analysis

The Seventh Circuit affirmed the lower court's grant of summary judgment in favor of JAB, saying that Ms. Osborn failed to meet her initial burden of proving she worked any uncompensated overtime hours, finding her evidence to be vague and lacking specifics about the time spent on tasks and her overall work schedule. This lack of specificity meant that even under the relaxed "just and reasonable inference" standard for damages established in *Mt. Clemens*, Ms. Osborn could not demonstrate the amount and extent of her alleged overtime worked.

Although it found in favor of JAB, the Seventh Circuit reiterated the importance of employers' maintaining accurate time records. When time records are lacking, employees are afforded a relaxed burden of proof, needing only to establish the amount and extent of their work by "just and reasonable inference." However, the court noted that "[t]he just and reasonable inference standard 'applies to damages questions only *after* an employee has met the initial burden to 'establish[] liability' by showing that the employee performed uncompensated overtime work."

Implications for employers

Even though the burden of proving liability ultimately rests with the employee, this case underscores the importance of maintaining accurate time records for all employees, particularly those who work remotely or those whose hours may fluctuate, regardless of whether they're salaried nonexempt or hourly employees.

Employers should ensure that their recordkeeping practices comply with FLSA regulations to avoid potential litigation.

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