

## FAIR LABOR STANDARDS ACT: AVOIDING WAGE AND HOUR VIOLATIONS

November 16, 2016

**Katie D. Triska**

414-298-8153  
ktriska@reinhardtlaw.com

**Robert S. Driscoll**

414-298-8272  
rdriscoll@reinhardtlaw.com

**Reinhart Boerner Van Deuren s.c.**

1000 North Water Street, Suite 1700, Milwaukee, WI 53202  
www.reinhartlaw.com



**Katie D. Triska** is a shareholder in Reinhart's Labor and Employment Practice. She routinely advises employers on a wide range of employment issues, including successful hiring, employee performance management and termination strategies; development and implementation of anti-harassment and other personnel policies; evaluating reasonable accommodation obligations under the Americans with Disabilities Act (ADA) and state disability laws; and achieving compliance with the Fair Labor Standards Act and state wage and hour laws.



**Robert S. Driscoll** is a shareholder in Reinhart's Labor and Employment Practice. Rob's practice encompasses a variety of employment topics, including defending employers against claims of unlawful discrimination and/or retaliation, handling disputes over restrictive covenants, drafting noncompete agreements and representing clients in appeals. Rob also counsels employers on wage issues, including guiding employers through government wage investigations, and has defended employers against both class-action and individual wage claims.

# Webinar Housekeeping

**Viewing the Slides**

Today's slide presentation will advance automatically in synch with the live presentation.

**Handouts**

If you would like a hard copy of the slide presentation, a printable version was e-mailed to you yesterday.

**Adjusting Your Volume**

Volume can be adjusted using the volume control on your computer or phone.

**Asking Questions**

Throughout the webinar, type your questions using the "QUESTIONS" section in the webinar panel. We will answer as many questions as possible during our Q & A session at the end of the presentation.

**Information**

This webinar provides general information about legal issues. It should not be construed as legal advice or a legal opinion. Attendees should seek legal counsel concerning specific factual situations confronting them.

2

©2016 All Rights Reserved  
Reinhart Boerner Van Deuren s.c.

**Reinhart**  
Boerner Van Deuren s.c. Attorneys at Law

# Disclaimer

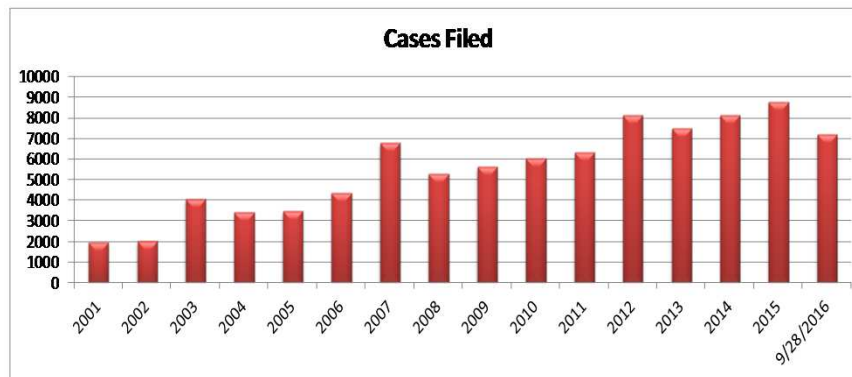
This presentation provides information of a general nature. None of the information contained herein is intended as legal advice or opinion relative to specific matters, facts, situations or issues. Additional facts and information or future developments may affect the subjects addressed in this presentation. You should consult with a lawyer about your particular circumstances before acting on any of this information because it may not be applicable to you or your situation.

3

©2016 All Rights Reserved  
Reinhart Boerner Van Deuren s.c.

**Reinhart**  
Boerner Van Deuren s.c. Attorneys at Law

## FLSA Suits in Federal Court



Source: Federal Judicial Caseload Statistics

## FLSA Suits are on the Rise

- FLSA suits in federal courts have quadrupled since 2000.
  - In 1991, FLSA suits made up less than 1% of all federal cases. Today, they make up **3.1%**.
  - Wage and hour cases are the fastest growing types of litigation in employment law
- It is expected that the number of FLSA suits will surpass 9,000 in 2016
- DOL investigations
  - In FY2015, the DOL recovered **\$246 million in back wages** on behalf of 240,000 workers
  - The DOL is increasing its own enforcement efforts, even if it does not receive a complaint
  - Finds FLSA violations in 79% of agency-initiated investigations (up from 65% in 2009)

## Worker Classifications

- Worker classifications include:
  - Independent contractor
  - Unpaid intern
  - Volunteer

6

©2016 All Rights Reserved  
Reinhart Boerner Van Deuren s.c.

**Reinhart**  
Boerner Van Deuren s.c. Attorneys at Law

## Worker Classifications (cont.)

- Independent contractors
  - It takes more than a contract to make a worker an independent contractor
  - The DOL applies an "economic realities" test, which considers:
    - 1) Employer's control over work to be performed
    - 2) Opportunity for profit/loss
    - 3) Extent of worker's investment in equipment/materials
    - 4) Whether the service rendered requires a specialized skill
    - 5) Permanency of relationship
    - 6) Integration of service with employer's business
  - No one factor alone is determinative

7

©2016 All Rights Reserved  
Reinhart Boerner Van Deuren s.c.

**Reinhart**  
Boerner Van Deuren s.c. Attorneys at Law

## Worker Classifications (cont.)

- Unpaid interns
  - The following six factors must be met:
    - 1) The internship is similar to the training an intern would receive in an educational environment
    - 2) The internship is for the benefit of the intern
    - 3) The intern does not displace regular employees, but works under the close supervision of existing staff
    - 4) The employer derives no immediate advantage from the activities of the intern and, on occasion, its operations may actually be impeded
    - 5) The intern is not necessarily entitled to a job at the conclusion of the internship
    - 6) The employer and intern understand that the intern is not entitled to wages for the internship

8

©2016 All Rights Reserved  
Reinhart Boerner Van Deuren s.c.

**Reinhart**  
Boerner Van Deuren s.c. Attorneys at Law

## Worker Classifications (cont.)

- Volunteering for the employer
  - Employees of for-profit employers may **not** volunteer for the employer
  - The regulations expressly authorize volunteers only for "public" agencies
    - The DOL does not consider time spent volunteering as "hours worked"
  - No DOL test exists for volunteer status
    - Civic, charitable, or humanitarian reasons
    - Expectation of compensation
    - Immediate/primary benefit
    - Importance of the work to the main business
    - Coercion
    - Same type of services performed as an employee?

9

©2016 All Rights Reserved  
Reinhart Boerner Van Deuren s.c.

**Reinhart**  
Boerner Van Deuren s.c. Attorneys at Law

## Exempt v. Nonexempt

- Generally, to be exempt under the FLSA:
  - Salary test
    - Employee must be paid a predetermined and fixed minimum salary that is not subject to reduction because of quality or quantity of work performed
  - Duties test
    - Employee's job duties must primarily involve executive, administrative, professional or other duties as defined by the regulations
- Certain professions are not subject to salary requirements
  - Particular licensed professional employees: practice of law or medicine
  - Computer employees who are paid at least \$27.43 per hour
  - Outside sales employees

10

©2016 All Rights Reserved  
Reinhart Boerner Van Deuren s.c.

**Reinhart**  
Boerner Van Deuren s.c. Attorneys at Law

## Salary Test

- Exempt employees must satisfy the "salary basis" test
- Employers may not:
  - Pay exempt employees by the hour
  - Reduce wages based on quality or quantity of work
  - Reduce wages based on number of days or hours worked each week

11

©2016 All Rights Reserved  
Reinhart Boerner Van Deuren s.c.

**Reinhart**  
Boerner Van Deuren s.c. Attorneys at Law

## Salary Test (cont.)

- Deductions are permissible in the following circumstances:
  - Employee is absent for personal reasons, other than sickness or disability
    - One or more full days
  - Employee is absent due to sickness or disability **AND** the deduction is taken in accordance with a bona fide plan, policy or practice providing wage replacement benefits
    - One or more full days
  - To offset amounts employees receive as jury or witness fees
  - If the employer imposes a penalty (e.g., suspension) for violations of safety rules of major significance
    - One or more full days

12

©2016 All Rights Reserved  
Reinhart Boerner Van Deuren s.c.

**Reinhart**  
Boerner Van Deuren s.c. Attorneys at Law

## Salary Test (cont.)

- If absence is for FMLA leave
  - Partial or full day
- If hours are not worked in the initial and final weeks of employment
  - Actual hours worked
- Due to unpaid disciplinary suspension for workplace conduct rule violations
  - One or more full days

13

©2016 All Rights Reserved  
Reinhart Boerner Van Deuren s.c.

**Reinhart**  
Boerner Van Deuren s.c. Attorneys at Law

## Salary Test (cont.)

- Safe harbor provision
  - Written safe harbor policy required if employer wants to seek safe harbor protections following an improper deduction
    - Prohibits improper pay deductions
    - Includes complaint mechanism
    - Reimburses employees for improper deductions
    - Employer commits to complying in the future

14

©2016 All Rights Reserved  
Reinhart Boerner Van Deuren s.c.

**Reinhart**  
Boerner Van Deuren s.c. Attorneys at Law

## Salary Test (cont.)

- December 1, 2016 changes to the federal salary test
  - Raises the salary level requirement for exempt executive, administrative and professional employees ("EAP") from the current rate of \$455 per week to **\$913 per week**
    - From \$23,660 per year to **\$47,476 per year**
  - Raises the salary level requirement for highly compensated employees from the current rate of \$100,000 per year to **\$134,004 per year**
- Salary thresholds will increase every three years beginning January 1, 2020

15

©2016 All Rights Reserved  
Reinhart Boerner Van Deuren s.c.

**Reinhart**  
Boerner Van Deuren s.c. Attorneys at Law



## Salary Test (cont.)

- Changes to the salary test
  - Allow nondiscretionary bonuses and incentive payments to count toward 10% of exempt executive, administrative and professional employees' standard weekly salary
    - Must be paid at least quarterly
    - Allows for a quarterly "catch-up" payment within one pay period of the end of a quarter
    - Examples:
      - Retention bonuses
      - Commission payments based on a fixed formula
    - This does not allow discretionary bonuses to count toward the salary level requirement

16

©2016 All Rights Reserved  
Reinhart Boerner Van Deuren s.c.

**Reinhart**  
Boerner Van Deuren s.c. Attorneys at Law

## Salary Test (cont.)

- Examples of nondiscretionary bonuses and incentive payments
  - Example #1
    - Sally is an exempt professional employee who is paid on a weekly basis and receives a quarterly nondiscretionary bonus
    - Sally MUST receive, at minimum, \$821.70 per week in salary (90% of \$913)
    - Sally MUST receive a nondiscretionary bonus of \$1,186.90 per quarter (\$91.30/week x 13 weeks) within one pay period after the close of the quarter
  - Example #2
    - Sally earns a quarterly nondiscretionary bonus of \$2,000
    - Her employer STILL may only count \$1186.90 per quarter (\$91.30/week) toward her salary level
    - Her employer STILL MUST pay, at minimum, \$821.70 per week in salary (90% of \$913)

17

©2016 All Rights Reserved  
Reinhart Boerner Van Deuren s.c.

**Reinhart**  
Boerner Van Deuren s.c. Attorneys at Law

## Salary Test (cont.)

- Compliance steps and recommendations
  - Identify which employees the regulatory changes will affect
  - Short-term hour tracking OR request employees or immediate supervisors to provide estimates of hours worked
  - Assess employees' workloads
  - Review organizational charts to see where affected employees fall in comparison to similar jobs in other departments
  - Consider operations and budget
    - Will you increase salaries to meet the new threshold?
    - Will you convert to hourly?
      - What will be your estimated overtime wages?
      - Will you hire additional employees to reduce overtime?
      - Will you adjust employee workloads and/or transfer duties?
      - Will you reduce equivalent hourly pay so employees' hourly wages plus overtime still equals their current salaries?

18

©2016 All Rights Reserved  
Reinhart Boerner Van Deuren s.c.

**Reinhart**  
Boerner Van Deuren s.c. Attorneys at Law

## Salary Test (cont.)

- Compliance steps and recommendations (cont.)
  - Consider whether employees will be subject to different fringe benefit plans as nonexempt employees
  - Consider morale and ripple effects
  - Communicate possible changes to employees
    - Plan out the communication/reasoning:
      - "This is required by law"
      - "This is not a demotion"
      - "This is the company's effort to maintain the employees' pay"
  - Analyze your bonus/commission structures
    - Do you need to/want to change discretionary bonuses to nondiscretionary bonuses?
    - Designate a person to analyze nondiscretionary bonuses and commissions on a quarterly basis
  - Review, edit/update and disseminate employee handbooks and policies
  - Ensure your timekeeping methods are up to date and that you are accurately tracking hours

19

©2016 All Rights Reserved  
Reinhart Boerner Van Deuren s.c.

**Reinhart**  
Boerner Van Deuren s.c. Attorneys at Law

## Executive Exemption

- Federal
  - Compensated on a salary basis at a rate of not less than \$913 per week
  - Primary duty must be management of the enterprise in which the employee is employed, or of a customarily recognized department or subdivision thereof
  - Customarily and regularly directs the work of two or more other employees
  - Authority to hire or fire employees – **OR**
    - The employee's suggestions and recommendations as to hiring, firing, advancement, promotion, or any other change in status must be given particular weight

20

©2016 All Rights Reserved  
Reinhart Boerner Van Deuren s.c.

**Reinhart**  
Boerner Van Deuren s.c. Attorneys at Law

## Professional Exemption

- Federal
  - Compensated on a salary basis at a rate of not less than \$913 per week
  - Learned professional
    - Employee's primary duty must be the performance of work requiring advanced knowledge in a field of science or learning customarily acquired by a prolonged course of specialized intellectual instruction
  - Creative professional
    - Employee's primary duty must be the performance of work which requires invention, imagination and originality

21

©2016 All Rights Reserved  
Reinhart Boerner Van Deuren s.c.

**Reinhart**  
Boerner Van Deuren s.c. Attorneys at Law

## Administrative Exemption

- Federal
  - Compensated on a salary basis at a rate of not less than \$913 per week
  - Primary duty must be the performance of office or nonmanual work directly related to the management or general business operations of either the employer or the employer's customers
  - Primary duty must also include the exercise of discretion and independent judgement with respect to matters of significance

22

©2016 All Rights Reserved  
Reinhart Boerner Van Deuren s.c.

**Reinhart**  
Boerner Van Deuren s.c. Attorneys at Law

## Administrative Exemption (cont.)

- Functional areas that generally are directly related to management or general business operations
  - Tax
  - Finance
  - Accounting
  - Budgeting
  - Auditing
  - Insurance
  - Quality control
  - Purchasing
  - Procurement
  - Advertising
  - Marketing
  - Research
  - Safety and health
  - Personnel management
  - Human resources
  - Employee benefits
  - Labor relations
  - Public relations/government relations
  - Computer network, Internet and database administration
  - Legal and regulatory compliance

23

©2016 All Rights Reserved  
Reinhart Boerner Van Deuren s.c.

**Reinhart**  
Boerner Van Deuren s.c. Attorneys at Law

## Administrative Exemption (cont.)

- "Discretion and independent judgement"
  - Authority to formulate, affect, interpret or implement management policies or operating practices
  - Carries out major assignments in conducting the operations of the business
  - Performs work that affects business operations to a substantial degree, even if the employee's assignments are related to operation of a particular segment of the business
  - Authority to commit the employer in matters that have significant financial impact
  - Authority to waive or deviate from established policies and procedures without prior approval
  - Authority to negotiate and bind the company on significant matters
  - Provides consultation or expert advice to management
  - Involved in planning long- or short-term business objectives
  - Investigates and resolves matters of significance on behalf of management
  - Represents the company in handling complaints, arbitrating disputes or resolving grievances

24

©2016 All Rights Reserved  
Reinhart Boerner Van Deuren s.c.

**Reinhart**  
Boerner Van Deuren s.c. Attorneys at Law

## Outside Sales Exemption

- Federal
  - The employee's primary duty is (1) making sales or (2) obtaining orders or contracts for services, or for the use of facilities for which the client will make a payment
  - Employee is regularly and customarily working away from the employer's place of business
  - Does not need to be paid on a salary basis

25

©2016 All Rights Reserved  
Reinhart Boerner Van Deuren s.c.

**Reinhart**  
Boerner Van Deuren s.c. Attorneys at Law

## Commission Sales Exemption

- Federal
  - To qualify for the commission sales overtime exemption under the FLSA, an employee must meet all of the following requirements:
    - The employee must work for a "retail or service establishment"
    - The employee's regular rate of pay must be at least one and one-half times the minimum wage rate for all hours worked
    - At least half of the employee's compensation is paid from commission

26

©2016 All Rights Reserved  
Reinhart Boerner Van Deuren s.c.

**Reinhart**  
Boerner Van Deuren s.c. Attorneys at Law

## Recordkeeping

### FLSA: Recordkeeping for Non-exempt Employees

1. Full name	7. Hours worked each day/week
2. Home address	8. Daily/weekly straight-time earnings
3. Date of birth (if under 19)	9. Premium pay for overtime
4. Sex and occupation	10. Additions/deductions
5. Time/day the "workweek" begins	11. Total wages each pay period
6. Regular hourly rate of pay	12. Date of payment and pay period covered

### FLSA: Recordkeeping for Exempt Employees

1. Full name	5. Time/day the "workweek" begins
2. Home address	6. Total wages each pay period
3. Date of birth (if under 19)	7. Date of payment and pay period covered
4. Sex and occupation	

27

©2016 All Rights Reserved  
Reinhart Boerner Van Deuren s.c.

**Reinhart**  
Boerner Van Deuren s.c. Attorneys at Law

## Recordkeeping (cont.)

- Federal law allows employers to "round" working time
  - Rounding to the nearest 5 minutes, tenth of an hour, or 15 minutes
    - Employers should have a policy designating the method used
  - Rounding must *not* be in favor of the employer each time, but must be done so that the time evens out
- Example: An employer has a 15-minute rounding policy. An employee's start time is 9 a.m. If she punches in at 8:53 a.m., the employer rounds up to 9 a.m. If she punches in at 9:07 a.m., the employer rounds down to 9 a.m.
- **Caution!**
  - Do not round meal breaks
  - Apply rounding to each start and end time, not just at the end of the day
  - If an employee is disciplined for punching in too early or punching out too late, an employer **may** violate the rounding regulations

## Calculation of Overtime

- Employees who are *not* exempt must be paid 1.5 times their regular rate of pay for all hours worked over 40 in any "workweek"
  - The "workweek" is a consecutive period of seven days set by the employer
  - For example, Sunday through Saturday is one workweek
- The "regular rate" is *not* the same as the "hourly rate"
  - It includes *all compensation*, subject to certain exceptions
  - <https://webapps.dol.gov/elaws/whd/flsa/otcalc/docstatexc.asp>
- Example: An employee earns \$8 per hour. She worked 45 hours in a week and received a \$20 nondiscretionary attendance bonus for that week.
  - Her "regular rate" for the week is \$8.44.
    - $(45 \text{ hours} \times \$8 = \$360) + (\$20 \text{ bonus}) = \$380 \div 45 = \$8.44$
  - Total compensation for the week is \$401.10
    - $(\$360) + (5 \text{ hours} \times \$4.22) + (\$20 \text{ bonus}) = \$401.10$

## Working Time

- Nonexempt employees must be paid for all "hours worked"
  - Includes all time that an employee is "suffered or permitted to work" for the benefit of the employer
  - If the employer knows, or has reason to know, that an employee is performing work, the employee must be compensated
- Preliminary and postliminary activities
  - Federal law excludes from "working time" activities performed before or after the principal work activities
- Principal activities include "all activities which are an integral and indispensable part of the principal activities"
  - "Integral and indispensable" means:
    - Tasks necessary to the principal work, AND
    - Tasks that primarily benefit the employer

30

©2016 All Rights Reserved  
Reinhart Boerner Van Deuren s.c.

**Reinhart**  
Boerner Van Deuren s.c. Attorneys at Law

## Working Time (cont.)

- Some activities may be compensable even if they are performed before the employee's work day begins
  - **Example:** Insurance appraisers who, before work, checked e-mail, responded to messages, mapped their route and loaded equipment were due compensation because the job required it
  - **Example:** Employee whose principal job was to stock shelves and price items was not due compensation for time spent checking e-mail before his shift
- **Beware of off-the-clock exposure!**
  - Technology has made it much easier for employees to perform work outside of normal business hours
  - Employers may be held liable for working time if employees are checking e-mail or doing other work activities at home
    - Compensate for most unauthorized working time
    - Discipline for not following work rules

31

©2016 All Rights Reserved  
Reinhart Boerner Van Deuren s.c.

**Reinhart**  
Boerner Van Deuren s.c. Attorneys at Law



## Donning and Doffing

- Time spent changing clothes is compensable if employees are required by law, rules of the employer, or the nature of the work to change at the workplace
  - This includes "travel time" between the locker room and work station
- **Exception:** The FLSA specifically excludes time spent "changing clothes or washing at the beginning or end of each workday" from working time if done pursuant to a collective bargaining agreement

32

©2016 All Rights Reserved  
Reinhart Boerner Van Deuren s.c.

**Reinhart**  
Boerner Van Deuren s.c. Attorneys at Law

## On-Call Time

- An employee who is "on-call" must be compensated if the time is "predominately for the employer's benefit"
- What does this mean in practice?
  - How much freedom does the employee have while "on-call"?
  - Can the employee use the time effectively for his own purposes?

33

©2016 All Rights Reserved  
Reinhart Boerner Van Deuren s.c.

**Reinhart**  
Boerner Van Deuren s.c. Attorneys at Law

## Travel Time

- Federal law excludes time "walking, riding, or traveling to and from the actual place of performance of the principal activity" from working time
  - In other words, traveling to/from work is generally not compensable
  - This is true even if the employee's principal job site changes
- But there are exceptions:
  - An employee is required to drive to a meeting place before proceeding to his/her normal worksite
  - Compensable time begins upon his/her arrival at the meeting place
- Travel **during** the work day
  - Typically compensable
  - **Example:** Driving between worksites once the workday has begun

34

©2016 All Rights Reserved  
Reinhart Boerner Van Deuren s.c.

**Reinhart**  
Boerner Van Deuren s.c. Attorneys at Law

## Travel Time (cont.)

- One-day, out-of-town assignments
  - If an employee at a certain location is given a one-day assignment out of town, travel to the new location is compensable
  - But the employee's normal commute would be noncompensable
- Overnight travel
  - Travel during the normal workday is compensable even if performed on nonworkdays (Saturday/Sunday)
  - Travel outside the workday is **not** compensable
    - But if the employee works while traveling, the time is compensable

35

©2016 All Rights Reserved  
Reinhart Boerner Van Deuren s.c.

**Reinhart**  
Boerner Van Deuren s.c. Attorneys at Law

## Meal and Break Periods

	Wisconsin	Federal
Breaks required?	No.	No.
Length of breaks to be considered compensable?	Less than 30 minutes.	5 to 20 minutes.
Meal periods required?	No.	No.
Length of meal period to be considered noncompensable?	At least 30 minutes.	At least 30 minutes.
What restrictions are allowed or not allowed?	<ul style="list-style-type: none"> <li>• Must be allowed to leave the premises</li> <li>• Must be free from all work</li> </ul>	<ul style="list-style-type: none"> <li>• Must be free to leave duty post</li> <li>• Must be completely relieved of all duties</li> <li>• May require employees to remain on-site</li> </ul>

**Note:** Some courts have upheld the legality of automatic deductions for meal periods. But employers should have clear policies and procedures in place for employees to report days on which they performed work during lunch so that they can be compensated.

36

©2016 All Rights Reserved  
Reinhart Boerner Van Deuren s.c.

**Reinhart**  
Boerner Van Deuren s.c. Attorneys at Law

## Nursing Mother Breaks

- Federal law requires employers to provide unpaid breaks to **nonexempt** nursing mothers for up to **one year** after the child's birth
  - A break is required each time the mother needs to express breast milk
  - Employers must provide a private location (shielded from view and free from intrusions) that is not a bathroom
  - "Reasonable" length of time for each break
- **Caution!** Some states may not provide for unpaid breaks
  - Employers in those states must provide the break time under federal law and must compensate the employee under state law

37

©2016 All Rights Reserved  
Reinhart Boerner Van Deuren s.c.

**Reinhart**  
Boerner Van Deuren s.c. Attorneys at Law

## Training and Meetings

- Rule: Employees must be compensated for time spent attending training programs and meetings
- Exception:
  - Attendance is outside regular working hours
  - Attendance is completely voluntary
  - The program is not directly related to the employee's job
  - The employee does not perform productive work during the program
- What does it mean to be "voluntary"?
  - If continued employment is dependent on attendance, then the program is not voluntary
- What does it mean to be directly related to the job?
  - "Designed to make the employee handle his job more effectively"
  - Exceptions:
    - Training for a new position/preparation for a promotion
    - Benefits extending beyond their job duties

38

©2016 All Rights Reserved  
Reinhart Boerner Van Deuren s.c.

**Reinhart**  
Boerner Van Deuren s.c. Attorneys at Law

## Best Practices for Working Time

- Ensure employees, including supervisors, know that working outside the office, including on electronic devices, is compensable
- Adopt a clear policy to address whether work by nonexempt employees outside the office is expected or even allowed, especially when employees are provided with smartphones or remote access to the network
- Management must be aware that greater electronic access leads to greater risks of work being performed "off the clock"
- Policies must direct employees to report all time worked, including time worked during what would otherwise be a meal break

39

35021594  
©2016 All Rights Reserved  
Reinhart Boerner Van Deuren s.c.

**Reinhart**  
Boerner Van Deuren s.c. Attorneys at Law

## Best Practices for Working Time (cont.)

- Every employee, especially those with off-site access to e-mail and other electronic systems, should receive and acknowledge receipt of employer's wage and hour policies
- Turn off access during nonwork hours. For example, Volkswagen has implemented a system that keeps its servers from routing messages to mobile devices starting 30 minutes after each shift and ending 30 minutes before the start of the next shift.
- Require nonexempt employees to obtain permission to work overtime
- Prohibit employees on leave (ADA, FMLA, etc.) from working and remind coworkers not to give assignments to employees on leave

40

©2016 All Rights Reserved  
Reinhart Boerner Van Deuren s.c.

**Reinhart**  
Boerner Van Deuren s.c. Attorneys at Law

## Questions?



## THANK YOU!

41

©2016 All Rights Reserved  
Reinhart Boerner Van Deuren s.c.

**Reinhart**  
Boerner Van Deuren s.c. Attorneys at Law