



Chuck Davis <cldavis1104@gmail.com>

Dispatcher Overtime

7 messages

Kylie Waldrip <kylie@kmwpc.net>
To: Chuck Davis <cldavis1104@gmail.com>

Fri, Feb 3, 2023 at 9:11 AM

Hi Chuck,

Based on my research, it appears that emergency/public safety dispatchers are entitled to overtime compensation after 40 hours in a workweek under FLSA Section (7). There are some exceptions to that rule based on the duties and functions of the dispatchers. It is my understanding that a Saratoga dispatcher's job is only to answer and dispatch appropriate assistance with respect to emergency calls. Is that correct? If they are uniformed, or have the power to arrest, or training for law enforcement or investigation, that can change the dispatcher's status for overtime.

There are additional exemptions which I don't think apply. Namely, the executive, administrative, and professional exemptions which I've provided below:

Executive Employee Criteria

To qualify for the executive employee exemption (and therefore, not be entitled to receive overtime pay under the FLSA), an employee must meet all of the following requirements:

1. The employee must be compensated on a "salary basis" (as defined in 29 CFR § 541.602) at a rate not less than \$684 per week (lower amounts apply for non-federal employees in U.S. territories);
2. The employee's primary duty must be management of the enterprise, or management of a customarily recognized department or subdivision of the enterprise;
3. The employee must customarily and regularly direct the work of at least two or more other full-time employees or their equivalent; and
4. The employee must have the authority to hire or fire other employees, or the employee's suggestions and recommendations as to the hiring, firing, advancement, promotion or any other change of status of other employees must be given particular weight.

Administrative Employee Criteria

To qualify for the administrative employee exemption (and therefore, not be entitled to receive overtime pay under the FLSA), an employee must meet all of the following requirements:

1. The employee must be compensated on a "salary basis" (as defined in 29 CFR § 541.602) or "fee basis" (as defined in 29 CFR § 541.605) at a rate not less than \$684 per week (lower amounts apply for non-federal employees in U.S. territories);
2. The employee's "primary duty" must be the performance of office or non-manual work directly related to the management or general business operations of the employer or the employer's customers;
3. The employee's primary duty includes the exercise of discretion and independent judgment with respect to matters of significance.

Learned Professional Exemption

To qualify for the learned professional employee exemption (and therefore, not be entitled to receive overtime pay under the FLSA), an employee must be compensated on a salary or fee basis (as defined in the regulations) at a rate not less than \$684 per week, and meet all of the following requirements:

1. The 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. This primary duty test has three elements:
 1. The employee must perform work requiring advanced knowledge;
 2. The advanced knowledge must be in a field of science or learning; and

3. The advanced knowledge must be customarily acquired by a prolonged course of specialized intellectual instruction.

As you can see, it appears the average dispatcher would not qualify for any of those exemptions. However, I am not intimately familiar with the jobs and duties of Saratoga's dispatchers so that is something that should probably be discussed with Mike before any decisions are made.

Additionally, it appears there is a 2 year look back period. Therefore, the dispatchers would be entitled to claim back overtime for the last 2 years. You just need to be aware of that. I have no idea what kind of number that might result in.

Let me know if you have any questions or concerns. I'd be happy to talk with Mike directly too if you think that would be helpful.

Sincerely,

Kylie

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Kylie M. Waldrip
Kurt Kelly, Of Counsel
Kylie M. Waldrip, P.C.
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Rawlins, Wyoming 82301

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Chuck Davis <cldavis1104@gmail.com>
To: clerk@saratogawyo.org

Fri, Feb 3, 2023 at 9:30 AM

[Quoted text hidden]

Chuck Davis <cldavis1104@gmail.com>
To: [Kylie Waldrip <kylie@kmwpc.net>](mailto:kylie@kmwpc.net)

Fri, Feb 3, 2023 at 9:32 AM

Thanks Kylie, we have been paying incorrectly. So if we have to back pay, what is the best course of action on this?
[Quoted text hidden]

Chuck Davis <cldavis1104@gmail.com>
To: mmorris@saratogawyo.org

Fri, Feb 3, 2023 at 10:50 AM

[Quoted text hidden]

Kylie Waldrip <kylie@kmwpc.net>
To: [Chuck Davis <cldavis1104@gmail.com>](mailto:cldavis1104@gmail.com)

Fri, Feb 3, 2023 at 12:01 PM

I think the best course of action is to find out from Marie what kind of number we are talking about and then see if we can just cut checks or if we need to come up with a payment plan.

Kylie

[Quoted text hidden]

Chuck Davis <cldavis1104@gmail.com>

Fri, Feb 3, 2023 at 12:09 PM

To: Kylie Waldrip <kylie@kmwpc.net>

Ok thank you

[Quoted text hidden]

Kylie Waldrip <kylie@kmwpc.net>

Fri, Feb 3, 2023 at 12:18 PM

To: Chuck Davis <cldavis1104@gmail.com>

You're welcome. Have a great weekend!

Kylie

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Saratoga Police Department

Chief Mike Morris
110 E Spring Ave
P.O. Box 552
Saratoga, Wyoming 82331
(307) 326-8316 Fax: (307) 326-9641

Memorandum

To: All Full Time Dispatchers
From: Chief Mike Morris
Cc; Mayor Davis, Town Clerk Marie Christen

A handwritten signature in blue ink, appearing to read "Mike Morris", is written over the "Cc" line of the memorandum header.

As we have previously discussed, it has been found that we have been paying your overtime incorrectly. After researching, and speaking with the Town Attorney, you will now be paid based on a 40 hour work week. Any hours worked over 40 in a work week will be considered overtime, to be paid at one and one half times your regular rate of pay.

With this being said, we will be researching the amount of money owed you, if any, because the impropriety. This will take some time to do, I have been told that this should be accomplished by August. This time frame should allow time to go through payroll records, time sheets and schedules. I am sorry for the inconvenience, but want to assure you that Town of Saratoga intends to make this right with each and every one of you.

If you have any questions or concerns, please do not hesitate to contact myself, or Marie.