

Changing Workplace Spurs More Overtime Lawsuits

U.S. companies are grappling with a big upsurge in lawsuits on overtime pay, and many of the legal tussles are emerging far from the factory floor.

Cases involving so-called “wage and hour” rules accusing employers of failing to pay required overtime more than doubled in federal courts from 2001 to 2006. While precise figures aren’t available, attorneys representing companies and plaintiffs estimate that employers have paid more than \$1 billion a year to resolve overtime claims, [BusinessWeek’s Michael Orey reports](#). The new wage wars expose a fundamental debate about the modern workplace. Overtime laws were drafted during the Depression, aimed both at protecting factory workers and encouraging businesses to hire additional employees rather than pay existing ones more. Under exemptions to the law, businesses aren’t required to pay overtime to most professionals — generally workers whose jobs require independent judgment. But the distinctions between white- and blue-collar jobs have blurred over the last few decades as more tasks, even in offices, become regimented. What’s more, technology has enabled many employees to extend their work day well beyond their time at the office. “Bankers used to work bankers’ hours,” says Jerry A. Jacobs, a sociologist at the University of Pennsylvania. But by the 1960s, he notes, professionals were putting in longer hours than traditionally working-class employees. Although many people appear to be entitled to overtime pay they aren’t receiving, few employees consider making a claim until it is suggested by an attorney, Mr. Orey reports. What’s more, deeply rooted beliefs about work among college-educated professionals make many of them resistant to pursuing overtime pay.

Lawyers like Reno, Nev.-based Mark R. Thierman are working to change those perceptions. Viewed as perhaps the most successful plaintiffs’ attorney in the overtime field, Mr. Thierman has made his mark pursuing claims of the relatively well-paid, including computer and financial-services employees. The growing number of lawsuits has created a windfall for attorneys on both the management side and for plaintiffs’ attorneys like Mr. Thierman, who says his recent settlements alone total \$458 million, of which he might receive tens of millions of dollars. — *Wendy Pollack*