

FLSA: Are Personal Caregivers Entitled To Overtime?

The US District Court for the District of Maryland has a pending case which challenges the decision of a corporation which operates several care facilities to deny overtime pay to CNA's.

The US Fair Labor Standards Act (FLSA) mandates time-and-one-half overtime pay for most private-sector employees.

The Act contains an exception for employees in domestic service who provide companionship for individuals who, because of age or infirmity, are unable to care for themselves.

The exception exists only for such services performed in clients' private homes.

UNITED STATES DISTRICT COURT
MARYLAND
July 5, 2007

The focus of the lawsuit is whether the CNA's provide personal care inside their clients' private homes, as opposed to inside a caregiving institution.

The definition of a private home is not at all straightforward in this case. The court must draw the line where progressive levels of assisted living cease to be private dwellings and become institutional.

At this point the court has ruled only that there will not be one, but four separate class-action lawsuits for the workers in four distinct levels of care offered by the corporation. **Rawls v. Augustine Home Health Care Inc.**, __ F.R.D. __, 2007 WL 1952988 (D. Md., July 5, 2007).