

AGENDA

- I. Introduction
 - a. Model Rules & Technology
 - b. Competency as an Attorney
- II. Following the Bread Crumbs – Scenario 1
 - a. Search History – Picking up Where You Left Off
 - b. Finding Supporting Cases – Legal Issue Trail
 - c. Segment Searching
 - d. Researching Legal Topics
 - e. Browsing Sources
- III. Be Aware of Your Surroundings – Scenario 2
 - a. Pre Search Filtering
 - b. Search Construction
 - c. Post Search Filters
- IV. Gathering Your Own Kindling – Scenario 3
 - a. Organize Your Research
 - b. Maintaining Awareness
 - c. Research on the Go
- V. Conclusion

FULL DESCRIPTION

Experimental performance artist Laurie Anderson once described technology as “the campfire around which we tell our stories.” That is especially true in the legal profession. As technology has allowed greater amounts of information to be retained and legal documents to become longer and longer, attorneys and legal professionals no longer have the choice to ignore it. Indeed, becoming technologically savvy and staying abreast of advancements is at the very core of the competency of the legal profession. Explore the latest technological advancements in this course. Strategies for efficiently researching, organizing and maintaining awareness are just a few of the topics covered.

**RED SEARCH
BOX**



**NAVIGATION
BAR**

USING A TABLE OF CONTENTS

TOCs are available for U.S. and state statutes, constitutions, court rules and administrative codes, plus municipal codes and many treatises, guides and form books.

Gain Access to a TOC Several Ways:

1. Enter the TOC source name in the research box and select the **View Table of Contents** link.
2. Identify your TOC source in Browse Sources and select the **View Table of Contents** link.
3. Select the source's **View Table of Contents** link in your search results.
4. Select the source's **View Table of Contents** link from your Recent & Favorites list or Favorites pod.

To Browse a TOC:

Open and close hierarchy levels. Select ► to open, ▼ to close.

Select a **blue document link** to open a full-text section. The document opens in a new window. To return to the TOC, close the document.

To Search a TOC:

Enter your **search terms** in the search box to the left of the open TOC.

- You can search the TOC and documents together or separately; the default is both. Make your selection beneath the search box.
- You can search specific portions of the TOC by selecting the magnifying glass icon next to the specific sections.

LEGAL ISSUE TRAIL

- Ability to Shepardize one particular issue
- Utilizing LIT, user can select a specific passage within a case and the tool will automatically identify cases that cite specifically to that legal issue
- For a specific legal point, LIT will:
 - List the cases that your case cites to in forming its opinion,
 - Lists subsequent cases that are now citing to the case only on this particular issue
 - Clicking on any of these subsequent citing decisions, will automatically take you into that opinion.

USING SHEPARD'S® & ALERTS

- Shepard's on Lexis Advance is dramatically different than on Lexis.com:
- 3 different sections to make it easier to sift through often complex reports.
 - Appellate History
 - Citing Decisions and
 - Citing to Secondary Sources.
- Note graphical features available reports
- Review Appellate History Map – Allows you to understand the history of your case by visualizing history in the chain.
- Use Decisions Grid –view the citing universe of case by court, date and treatment – allows you to identify potential splits of authority
- Can Shepardize statute to see if pending legislation
- Set up Alert to be advised whenever there are changes to a case or statute
 - No limit on amount of alerts
 - Manage alerts through the Alerts pod on the landing page

- Search: citizens suit provision and clean air act and feis (FEIS = Federal Environmental Impact Statement)
 - Open: Conservation Law Foundation v. Busey
 - On the right hand side of the case opinion, see Legal Issue Trail – Activate Passages
 - Click: Activate Passages: All legal issues are then immediately boxed in throughout the case.
 - Clicking on the boxed-in issue, you'll be taken directly to the LIT.

USING SEARCH HISTORY TO YOUR ADVANTAGE

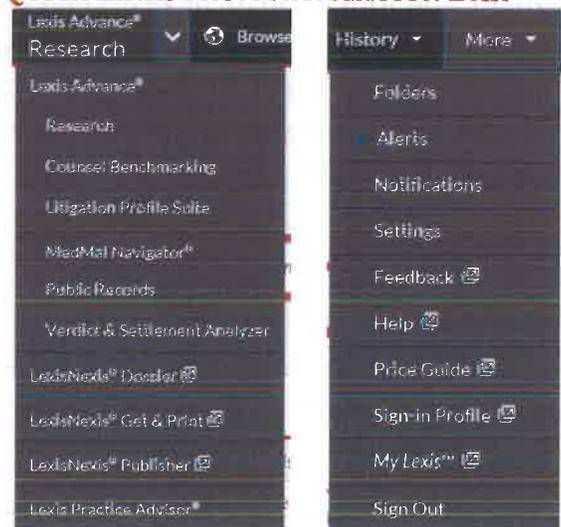
Two ways to access your search history:

1. Select History from the navigation bar at the top of the page.
2. Enter through the landing page in the "history" pod.

Things to keep in mind when using search history:

- From the bar, you'll see the past 5 searches you've recently run
- Users may access past searches for a period of 90 days.
- Open Full History from navigation bar and select List View.
 - Users have the ability to search within their history and filter using the left hand side of the screen.
- Users are also able to see a visual representation of their history
 - By using the mapping feature, the user can visually see where they went with their research and how they filtered or narrowed their results.
 - The user can also jump right back into their research by just clicking on any portion of the map.
- Great way to share your research process with your colleagues as well as a way to help you be more efficient in your research.

QUICK LINKS FROM NAVIGATION BAR



TERMS & CONNECTORS

In order of precedence:

- And and
- Or or
- w/N within N words
- pre/N precedes by N words
- w/p within the same paragraph
- w/s within the same sentence
- w/seg within the same segment
- and not and not

SPECIAL CHARACTERS



Asterisk replaces one letter:
 Wom*n = woman, women



Exclamation point truncates a root word:

Child! = childs, children, child support, child welfare, child endangerment

All! = Alias, Alibi, Alien, Alienate, Alienation, Alienating, Alimony,

BROWSING TOPICS

Select Browse and then Topics above the red search box. You can search for your topic or browse a topic hierarchy.

To Search for Your Topic:

Enter your search words in the topics search box

To Browse for Your Topic:

1. Select an area of law, e.g., Agency Adjudication.
2. Select ► to open subtopics, ▼ to close.
3. Select a topic link. Select a task, e.g., view topic documents or set up a topic alert to notify you of changes in the topic documents.

USING A SPECIFIC SOURCE

Enter a partial source name in the red search box. The word wheel will make suggestions, OR ...

1. Click Browse Sources (above the red search box).
2. Enter a partial title in the Sources search box. (Or browse titles alphabetically, by content type[s] or jurisdiction[s].)
3. Click a title link. Select an action, e.g., Add the source to a search. (Also save the source to your favorites list or view a source description, e.g., update schedule, content, etc.)

COMBINING SOURCES & SELECTING FAVORITES

To Combine Sources:

1. Enter a partial source name in the red search box. The word wheel will make suggestions. Select a source.
2. Repeat to add more sources to your search. The source combination is saved automatically in Recent & Favorites.

To Create and Search Favorite Sources:

- Select Favorites under the red search bar
- Click the gold star next to a source to make it a favorite (keep it on the list)

SEGMENT SEARCHING

The types of segments available vary by source type. Examples are listed below.

US Case Law Segments

NAME, JUDGES, WRITTENBY, ATTORNEY, FIRM, SUMMARY, CITE, COURT

Briefs

CITE, NAME, COURT, TERM, TITLE, SUMMARY, NUMBER, JUDGES, ATTORNEY

Pleadings and Motions

CITE, NAME, COURT, TITLE, NUMBER, JUDGES, ATTORNEY

News Segments

HEADLINE, PUBLICATION, PUBLICATION-TYPE, TITLE, TERM, COMPANY

HLEAD (George w/2 soros) –finds terms in the headline or lead paragraph

Secondary Sources

CITE, TITLE, PUBLICATION, SECTION

Administrative Materials

CITE, NAME, COURT, TITLE, PUBLICATION, SUMMARY, SECTION, HEADING, NUMBER, STATUS, JUDGES, WRITTENBY, ATTORNEY

At Least Segment

ATLEAST3(Obama and Christie)

Use a number with ATLEAST (you can also use the search terms and & or). The terms will appear at least X number of times in the source.

Statutes and Legislation

Codes & Constitutions
 CITE, PUBLICATION, SECTION, HEADING

Court Rules
 CITE, PUBLICATION, SECTION, HEADING, STATUS

Pubic Laws/ALS
 CITE, PUBLICATION, HEADING

Bill Text or Bill Tracking
 CITE, NAME, CONGRESS, TITLE, PUBLICATION, SUMMARY, STATUS

Congressional Record
 CITE, NAME, CONGRESS, TITLE, PUBLICATION

Legislative Histories
 CITE, NAME, CONGRESS, TITLE, PUBLICATION, SUMMARY, HEADING, NUMBER, STATUS, PUBLICATION-TYPE

Treaties
 CITE, TITLE, PUBLICATION

Municipal Codes
 CITE, TITLE, PUBLICATION, HEADING

REFINING SEARCH RESULTS

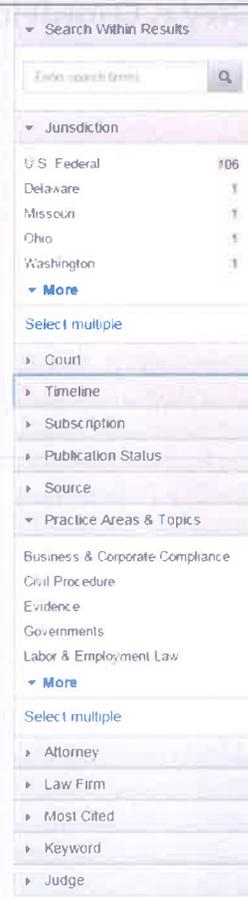
Add Search Words

1. Go to the Search within results search box at the top left of your results screen.
2. Enter your search terms.
3. To remove the additional search words, click the X next to the displayed words

Refine by Filters

1. Click a filter link to apply it to your results. All filters added display at the top of the filter list on the left side of the screen.
2. Click the X next to the filter at the top of the filter list to remove it.
3. To remove all filters, click Clear All.

It's always best to cast a wide net and then refine



WORKS REFERENCED OR CITED

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Anderson v. Perdue Farms, Inc., 604 F. Supp. 2d 1339, 2009 U.S. Dist. LEXIS 19243, 157 Lab. Cas. (CCH) P35,551, 14 Wage & Hour Cas. 2d (BNA) 1515 (M.D. Ala. 2009)

Barnes Thornburg LLP, "Apple Employees Survive Summary Judgment in FLSA (Fair Labor Standards Act) Bag Check Class Action." National Law Review, June 5, 2014

Bureau of National Affairs, Inc. Wages and Hours Manual

Busk v. Integrity Staffing Solutions, Inc., 713 F.3d 525, 2013 U.S. App. LEXIS 7397, 163 Lab. Cas. (CCH) P36,113, 20 Wage & Hour Cas. 2d (BNA) 937, (9th Cir. Nev. 2013)

LexisNexis Topic Summary Report, "Overtime and Work Periods" (downloaded June 27, 2014)

Otey v. CrowdFlower, Inc., 2013 U.S. Dist. LEXIS 151846, (N.D. Cal. Oct. 22, 2013)

Topic Summary: Overtime & Work Periods

Practice Area: Labor & Employment Law

Jurisdiction: U.S. Federal

Context: Labor & Employment Law > Wage & Hour Laws > Scope & Definitions > **Overtime & Work Periods**

Definitions (1)

1. Section 207 [of the Fair Labor Standards Act] requires that an employer pay **overtime** at a rate of one and a half times an employee's regular rate for all hours worked in excess of forty per week. 29 U.S.C.S. § 207(a)(1).

Seminal Cases (8)

1. *Lamon v. Shawnee*, 972 F.2d 1145
2. *Monahan v. County of Chesterfield*, 95 F.3d 1263
3. *Singer v. City of Waco*, 324 F.3d 813
4. *Reich v. New York City Transit Auth.*, 45 F.3d 646
5. *Reich v. S. New Eng. Telecoms. Corp.*, 121 F.3d 58
6. *Avery v. City of Talladega*, 24 F.3d 1337
7. *Dalheim v. KDFW-TV*, 918 F.2d 1220
8. *Pacific Merchant Shipping Ass'n v. Aubry*, 918 F.2d 1409

Elements of (1)

1. To establish a claim for unpaid overtime wages, a plaintiff must establish by a preponderance of the evidence (1) that he worked overtime hours without compensation, (2) the amount and extent of the work as a matter of just and reasonable inference, and (3) that the employer knew of the uncompensated overtime.

Statutes and Rules (1)

1. *29 U.S.C. § 207*

Secondary Sources (2)

1. 7-178 Labor and Employment Law § 178.02
2. 7-178 Labor and Employment Law § 178.03

Burden of Proof (1)

1. An employee's initial burden of production on overtime pay claims under the Fair Labor Standards Act is minimal, and as a result, "self-serving" testimony is sufficient to establish a prima facie case.

Standards of Review (1)

1. Whether certain activities exclude an employee from overtime benefits under 29 U.S.C.S. § 207(a)(2) of the Fair Labor Standards Act is a question of law and is reviewed de novo.

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This document is current through the June 26, 2014 issue of the Federal Register

Code of Federal Regulations > TITLE 5-- ADMINISTRATIVE PERSONNEL > CHAPTER I-- OFFICE OF PERSONNEL MANAGEMENT > SUBCHAPTER B-- CIVIL SERVICE REGULATIONS > PART 551-- PAY ADMINISTRATION UNDER THE FAIR LABOR STANDARDS ACT > SUBPART D-- HOURS OF WORK > GENERAL PROVISIONS

§ 551.401 Basic principles.

- (a) All time spent by an employee performing an activity for the benefit of an agency and under the control or direction of the agency is "hours of work." Such time includes:
 - (1) Time during which an employee is required to be on duty;
 - (2) Time during which an employee is suffered or permitted to work; and
 - (3) Waiting time or idle time which is under the control of an agency and which is for the benefit of an agency.
- (b) For an employee, as defined in 5 U.S.C. 5541(2), hours in a paid nonwork status (e.g., paid leave, holidays, compensatory time off, or excused absences) are "hours of work" under this part.
- (c) Hours in an unpaid nonwork status (e.g., leave without pay, furlough, absence without leave) are not "hours of work" under this part.
- (d) Time that is considered hours of work under this part shall be used only to determine an employee's entitlement to minimum wages or overtime pay under the Act, and shall not be used to determine hours of work for pay administration under title 5, United States Code, or any other authority.
- (e) Irregular or occasional overtime work performed by an employee on a day on which work was not scheduled for that employee or for which the employee is required to return to his or her place of employment is deemed at least 2 hours in duration for the purpose of determining whether the employee may be entitled to overtime pay under this part, either in money or compensatory time off.
- (f) For the purpose of determining hours of work in excess of 8 hours in a day under this part, agencies shall credit hours of work under § 410.402 of this chapter, part 532 of this chapter and 5 U.S.C. 5544, and part 550 of this chapter, as applicable.
- (g) For the purpose of determining hours of work in excess of 40 hours in a week or in excess of another applicable overtime work standard under section 7(k) of the Fair Labor Standards Act, agencies shall credit hours of work under § 410.402 of this chapter, part 532 of this chapter and 5 U.S.C. 5544, and part 550 of this chapter, as applicable, that will not be compensated as hours of work in excess of 8 hours in a day, as well as any additional hours of work under this part.
- (h) For the purpose of determining overtime pay for work in excess of 40 hours in a workweek under this part, time spent in a travel status is hours of work as provided in § 551.422 of this part and § 550.112(g) of this chapter or 5 U.S.C. 5544, as applicable.

Statutory Authority

AUTHORITY NOTE APPLICABLE TO ENTIRE PART:

5 U.S.C. 5542(c); *sec. 4(f) of the Fair Labor Standards Act for 1938, as amended by Pub. L. 93-259, 88 Stat. 55(29 U.S.C. 204(f))*.

History

[45 FR 85664, Dec. 30, 1980, as amended at 52 FR 47687, Dec. 16, 1987, and 53 FR 27147, July 19, 1988; 56 FR 20343, May 3, 1991; 57 FR 59279, Dec. 15, 1992; 64 FR 69165, 69180, Dec. 10, 1999]

Annotations

Case Notes

LexisNexis® Notes

Case Notes Applicable to Entire Part

Business & Corporate Law : Agency Relationships : Duties & Liabilities : General Overview
 Governments : Federal Government : Employees & Officials
 Labor & Employment Law : Wage & Hour Laws : Coverage & Definitions : Governmental Employees
 Labor & Employment Law : Wage & Hour Laws : Coverage & Definitions : Overtime & Work Period
 Labor & Employment Law : Wage & Hour Laws : Statutory Application : Portal-to-Portal Act

Case Notes Applicable to Entire Part

Part Note

Business & Corporate Law : Agency Relationships : Duties & Liabilities : General Overview

[Bobo v. United States, 136 F.3d 1465, 1998 U.S. App. LEXIS 1764](#) (Fed Cir Feb. 9, 1998).

Overview: *Although the Immigration and Naturalization Service agents' commutes were related to their principal work activities, the burdens were insufficient to pass the de minimis threshold, and compensation for commutes was not warranted.*

- The Fair Labor Standards Act (FLSA), [29 U.S.C.S. §§ 201-219](#), requires federal agencies to pay employees for all time spent by an employee performing an activity for the benefit of an agency and under the control or direction of the agency. [5 C.F.R. § 551.401\(a\) \(1997\)](#). However, the Portal-to-Portal Act, which amends the FLSA, creates an exception to this general rule and declares, for public and private employees alike, that compensation need not be paid for: (1) walking, riding, or traveling to and from the actual place of performance of the principal activity or activities which such employee is employed to perform, and (2) activities which are preliminary to or postliminary to said principal activity or activities, [29 U.S.C.S. § 254\(a\)](#). [Go To Headnote](#)

Governments : Federal Government : Employees & Officials

[Nat'l Treasury Emples. Union v. Flra, 418 F.3d 1068, 2005 U.S. App. LEXIS 16901](#) (9th Cir Aug. 12, 2005).

Overview: *Union's proposed contract provision to compensate IRS employees for travel from home to location within official duty station conflicted with [5 C.F.R. § 551.422\(b\)](#) and, thus, it was properly disapproved by Secretary of the Treasury under [5 U.S.C.S. §§ 7114\(c\)](#), 7117 of Federal Service Labor-Management Relations Statute, [5 U.S.C.S. §§ 7101-7135](#).*

- The Office of Personnel Management (OPM) regulations designate certain time as "hours of work" to determine whether a federal employee is entitled to wages or overtime pay. [5 C.F.R. §§ 551.104, 551.401\(d\)](#). Thus, the absence of additional language stating that certain time is also "not compensable" is immaterial. The OPM regulations provide definitions, rules, and guidelines by which determinations are to be made as to what time constitutes "hours of work," and, therefore, as to what time is compensable. [Go To Headnote](#)

Labor & Employment Law : Wage & Hour Laws : Coverage & Definitions : Governmental Employees

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principal work activities, the burdens were insufficient to pass the de minimis threshold, and compensation for commutes was not warranted.

- The Fair Labor Standards Act (FLSA), [29 U.S.C.S. §§ 201-219](#), requires federal agencies to pay employees for all time spent by an employee performing an activity for the benefit of an agency and under the control or direction of the agency. [5 C.F.R. § 551.401\(a\) \(1997\)](#). However, the Portal-to-Portal Act, which amends the FLSA, creates an exception to this general rule and declares, for public and private employees alike, that compensation need not be paid for: (1) walking, riding, or traveling to and from the actual place of performance of the principal activity or activities which such employee is employed to perform, and (2) activities which are preliminary to or postliminary to said principal activity or activities, [29 U.S.C.S. § 254\(a\)](#). [Go To Headnote](#)

[Armitage v. United States, 1991 U.S. Ct. Cl. LEXIS 243](#) (Cl Ct June 20, 1991).

Overview: *Federally employed police and security officers were entitled to recover Sunday premium pay when on leave or authorized absence, but they were not entitled to overtime and holiday pay when they were absent, but not on leave.*

- [5 C.F.R. § 551.401\(c\)](#) provides that paid periods of nonwork, that is leave, holidays, or excused absences, are counted as hours of work for the purpose of an employee who receives: (1) annual premium pay for standby duty under [5 C.F.R. § 550.141](#), (2) annual premium pay for administratively uncontrollable overtime work under [5 C.F.R. § 550.151](#), or (3) overtime pay for regularly scheduled overtime work, as defined in [5 C.F.R. §§ 550.103\(p\), 610.102\(g\)](#). [Go To Headnote](#)

Labor & Employment Law : Wage & Hour Laws : Coverage & Definitions : Overtime & Work Period

[Nat'l Treasury Emples. Union v. Flra, 418 F.3d 1068, 2005 U.S. App. LEXIS 16901](#) (9th Cir Aug. 12, 2005).

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[Abbott v. United States, 41 Fed. Cl. 553, 1998 U.S. Claims LEXIS 172](#) (July 24, 1998).

Overview: *The Uniformed Division of the United States Secret Service would not succeed on the issue of regularly scheduled overtime because they did not work regularly scheduled overtime that yielded "customary and regular" pay.*

- In determining whether or not a Uniformed Division of the United States Secret Service member has reached the 85.5-hour threshold for Fair Labor Standards Act overtime purposes, roll-call time is considered "hours worked." Roll-call time must be credited as hours worked because it is time spent by an employee performing an activity for the benefit of an agency and under the control or direction of the agency. [5 C.F.R. § 551.401\(a\) \(1997\)](#). More specifically, roll-call time must be credited as hours of work because it is a "preparatory activity." [Go To Headnote](#)

Labor & Employment Law : Wage & Hour Laws : Statutory Application : Portal-to-Portal Act

[Bobo v. United States, 136 F.3d 1465, 1998 U.S. App. LEXIS 1764](#) (Fed Cir Feb. 9, 1998).

Overview: *Although the Immigration and Naturalization Service agents' commutes were related to their principal work activities, the burdens were insufficient to pass the de minimis threshold, and compensation for commutes was not warranted.*

- The Fair Labor Standards Act (FLSA), [29 U.S.C.S. §§ 201-219](#), requires federal agencies to pay

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employees for all time spent by an employee performing an activity for the benefit of an agency and under the control or direction of the agency. 5 C.F.R. § 551.401(a) (1997). However, the Portal-to-Portal Act, which amends the FLSA, creates an exception to this general rule and declares, for public and private employees alike, that compensation need not be paid for: (1) walking, riding, or traveling to and from the actual place of performance of the principal activity or activities which such employee is employed to perform, and (2) activities which are preliminary to or postliminary to said principal activity or activities, 29 U.S.C.S. § 254(a). Go To Headnote

Research References & Practice Aids
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NOTES APPLICABLE TO ENTIRE TITLE:

Title 5 of the United States Code was revised and enacted into positive law by Public Law 89-554, Sept. 6, 1966. New citations for obsolete references to sections of 5 U.S.C. appearing in this title may be found in a redesignation table under title 5, Government Organization and Employees, United States Code.

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