



## CAMPUS COUNSEL

A legal blog written for administrators, HR professionals, in-house counsel, and deans at colleges and universities

### Federal Court Allows FLSA Claim for Salaried Employee to Proceed

BY ROBERT G. YOUNG • APRIL 19, 2017

In a recent decision, the United States District Court for the Western District of New York denied a college's motion to dismiss an employee's claim for unpaid overtime hours under the Fair Labor Standards Act ("FLSA"). Richard Edelmann worked at Keuka College as a Senior Technical Support Technician. When he was hired, the College offered him the option of being paid hourly or being paid a salary (the salaried option carried with it one additional week of vacation time). Mr. Edelmann elected the salaried option, and he subsequently brought a claim alleging that the College misclassified him as exempt and failed to pay him for overtime hours that he worked. Mr. Edelmann claimed that, in addition to his regular, full-time schedule, the College required him to work "on-call" shifts as well as various other events (such as commencement, open houses, orientations, etc.) that pushed his actual time worked to approximately 50 hours per week, and therefore he was owed additional compensation for those hours. Though the College sought to dismiss Mr. Edelmann's complaint on the grounds that he failed to allege with specificity the number of hours per week that he worked, the Court allowed the claim to proceed.

**Client Tip:** *This case serves as a reminder that paying an employee a salary—even with the employee's consent—does not automatically make that employee exempt from overtime under the FLSA and that, ultimately, it is the employer's responsibility to track the hours worked by non-exempt employees accurately. Institutions should review their employee classifications regularly, and should maintain adequate records of hours worked, to ensure that those employees who are eligible for overtime are receiving the compensation required by law.*