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Lawsuit claims Bank of America failed to pay for overtime hours

Bank denies allegations that it violated labor law

Charlotte Business Journal - by [Adam O'Daniel](#) Staff writer

Past and present tellers and personal bankers at local Bank of America branches are being asked to join a lawsuit that accuses the bank of failing to pay overtime to some employees.

Three former **Bank of America Corp.** employees recently filed the federal suit. It claims the company requires hourly branch employees to work more than 40 hours in a week without receiving appropriate overtime pay.

The group recently placed newspaper ads in Charlotte and other key markets around the country asking BofA workers and former employees to join the collective-action lawsuit.

So far, one Charlotte area banker has joined the suit, says attorney George Hanson of Kansas City-based law firm **Stueve, Siegel & Hanson**. He represents the bank employees with co-counsel Donelon.

About 42 tellers and personal bankers from 12 states are party to the lawsuit to date.

“We’re looking at a potential class nationwide that could be in the scores of thousands,” Hanson says. “We’ve had a number of contacts with people in North Carolina and expect more to join almost daily.”

Dispute began in Midwest

The lawsuit was initiated by three former bank employees: tellers Amanda Brawner and Gynon Hamilton and personal banker Byron Hardiman, who all worked for BofA in recent years at branches in Kansas and Missouri. The suit was filed in U.S. District Court in Kansas City, Kan.

The plaintiffs make three major complaints in the suit, contending:

- Tellers and bankers aren’t allowed to record hours worked in excess of 40 hours per week.
- BofA erases or modifies recorded hours that exceed 40 hours per week.
- Bank officials provide “comp time” instead of paying overtime wages.

The suit contends those actions violate the Fair Labor Standards Act, which requires hourly employees to be paid one and a half times their normal hourly rate for any overtime.

BofA's "practice and policy is to willfully fail and refuse to properly pay overtime compensation," the suit states. It alleges branch employees are often required to work before and after scheduled shifts and to work through scheduled lunch breaks without being paid for the extra work.

'Case is without merit'

In court documents responding to the initial complaint, BofA denies that it violated the Fair Labor Standards Act.

"We believe this case is without merit," spokeswoman Shirley Norton says. "We are confident that our policies, practices, training of managers and associates, are designed to ensure full compliance with all federal and state wage and hour laws."

Because the suit is seeking collective action status instead of class action, all eligible bank workers must voluntarily choose to join the suit. Hanson expects the suit to grow quickly if the court requires BofA to turn over contact information for all of its tellers and personal bankers so they can be notified of the litigation.

Hanson says BofA promotes a "white-collar culture" that treats hourly employees like salaried workers by asking them to work extra without logging the extra time. He intends to produce evidence that shows timecards don't reflect other logs kept by the bank, showing tellers and personal bankers routinely work before and past the time filled in on timecards.

"It will be easy to show these people aren't getting paid," he says. BofA "doesn't really treat these people like hourly employees. They don't have the policies in place to make sure they're getting paid for all their time."

This isn't the first time BofA has been sued regarding overtime pay.

In 2005, the bank paid up to \$9 million to loan department workers in California who claimed they weren't paid for overtime work. And in 2003, BofA settled a suit for more than \$4 million after employees in Washington sued for overtime wages for after-hours and weekend work.

The bank did not admit any illegal activity in either case.

UNC Charlotte banking professor Tony Plath questions how many people will participate in the latest litigation. He estimates many current employees may be hesitant to join the suit out of fear of putting their jobs in jeopardy during a time of high unemployment.

"I'm surprised by the timing," Plath says. "I don't necessarily doubt the veracity of some of their claims. But in this market, everyone's doing a little working off the clock just to hang on to their job."

The suit seeks damages equal to all overtime pay owed employees, legal fees and other damages deemed appropriate by the court. A jury trial has been requested.