

Lawsuits alleging Bank of America's failure to pay overtime being consolidated in KCK

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Nationwide lawsuits alleging that Bank of America has failed to pay more than \$100 million in overtime and other employee wages are being consolidated in Kansas City, Kan.

The action in U.S. District Court coordinates at least a dozen lawsuits that potentially represent 180,000 tellers and other employees of the banking giant's branches and call centers around the country.

Attorneys for the plaintiffs said they believed they could prove that "when employees work more than 40 hours a week, they're instructed not to report their hours or that, if they do, the bank goes back in and changes their time sheets," said **Brendan Donelon**, a Kansas City lawyer appointed a lead counsel in the case.

The state and federal lawsuits seek back pay, overtime, liquidated damages, attorneys' fees and costs covering various lengths of time, and going back as far as six years in some cases.

Bruce Steen, an attorney for Bank of America, referred comment to Shirley Norton, a spokeswoman for the banking company at its Charlotte, N.C., headquarters.

"Bank of America has comprehensive policies, practices and training for both managers and associates designed to ensure full compliance with all federal and state wage and hours laws. We intend to vigorously defend against the allegations," Norton responded.

Another Kansas City-based lead counsel for the plaintiffs, **George Hanson**, said the plaintiffs believed they had evidence that Bank of America had a pattern and practice of paying what "equates to a salary to employees who technically are nonexempt and should be paid for their hours worked."

The case has been assigned to U.S. District Judge John Lungstrum, a veteran in handling complicated national labor law cases.

Unlike some current wage and hour cases, the lawsuits do not allege that the bank misclassified workers according to the Fair Labor Standards Act. Rather, the suits

contend that the employees correctly were classified as eligible for overtime but were not paid correctly when they worked overtime or worked through break times.

“The cases are reflective of what’s happening in the labor market,” **Hanson** said. “People’s wages are being chiseled but they’re afraid to complain because of fear of losing their jobs. It’s become par for the course for large employers, with a more-or-less captive employee base, to find ways to cut payroll corners.”

Depending on the specific case within the consolidated action, eligible Bank of America employees have the right to opt in or opt out as plaintiffs.

The consolidation of the cases brings together actions filed in Kansas, California, Florida, Texas and Washington.

A U.S. Judicial Panel on Multidistrict Litigation ruled that the cases should be consolidated to avoid costly duplication of effort.

The panel’s transfer order noted that Bank of America, “in seeking the convenience of centralization,” has indicated “that their corporate timekeeping policies are applied consistently throughout their locations and across job descriptions.”

The panel ruled that Kansas City, Kan., was the best venue for consolidation and that, most important, Lungstrum had “the experience, energy and time to handle this litigation efficiently.”

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