# Ninth Circuit Affirms Use of Time Card Rounding

By Karen L. Karr / May 05, 2016

In *Corbin v. Time Warner Entertainment-Advance/Newhouse Partnership*, the U.S. Ninth Circuit Court of Appeals confirmed that - despite the technology available in today's workplace - employers can still use rounding to track employee hours.

On May 2, 2016, the court issued a published opinion confirming that employers may round employees' time to the nearest quarter-hour (15 minutes) for purposes of payroll. Although the rounding concept has been around for decades, no reported U.S. court of appeals decision had ever discussed it.

Over 50 years ago, federal regulations endorsed the use of time card rounding practices, no doubt acknowledging accuracy and calculation problems created by the largely handwritten ledgers in use at that time. The call center at issue in *Time Warner*, however, did not use old-fashioned, handwritten ledgers. To the contrary, it used state-of-the art computer systems that were designed to help prevent off-the-clock work. Employees were automatically clocked in when they logged onto the system, and the system blocked employees from answering phones unless they were properly clocked in. Although the system utilized technology allowing precise, to-the-minute time logging, the employer rounded the time to the nearest quarter-hour when calculating payroll. The court approved, finding that the 50-year-old regulation was still applicable in today's digital world.

If an employer is going to use a rounding system, however, it must be very careful to apply the system in a consistent manner that favors neither overpayment nor underpayment. For example, if an employee clocks in at 8:08, the system would round the time to the nearest quarter-hour, which would be 8:15, and the employee would effectively lose 7 minutes of paid time. However, if the same employee clocks in on a different day at 8:07, the system would round the time to 8:00, thus effectively paying the employee for 7 minutes he did not work. The rationale is that - over the long run - the overpayments and the underpayments will even out.

Employers seeking to implement such a rounding policy should take care to ensure that the system does not stress underpayment. For example, a system that regularly rounds time down would consistently underpay the employee and be unlawful. However, a system that rounds to the closest quarter-hour, regardless of whether it is up or down, is consistent and should even out over time.

If you have questions about this or other Wage and Hour issues, please contact Karen L. Karr at (480) 684-1108 | kkarr@clarkhill.com, or another member of Clark Hill's Labor and Employment Law group.