

Exhibit F

# Kane Legal Overtime Pay Class Action Handbook

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**David Kane, R.Ph., J.D.**

*Professor of Pharmacy Law, Rutgers University*

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## Section 1 – Overtime Pay Class Action

### You May Be Entitled to Overtime Pay

United States federal law generally requires employees who work more than 40 hours per week to be paid overtime pay. Overtime pay is calculated at the regular hourly rate of pay plus an additional 50 percent of that regular rate. Just because an employee is paid a weekly, bi-weekly and/or monthly salary does not necessarily mean the employee is not entitled to overtime pay. Also, some states have wage and hour requirements for employers different from federal law.

To be ineligible for overtime, an employee must be in an exempt classification. Exempt classifications apply to executive, administrative, or professional employees. To qualify for an exemption from overtime pay requirements under these categories, the employee must generally pass a two-pronged test consisting of:

1. a salary basis test
  - Generally, a salary test is met if the employee is paid a fixed amount of money weekly, bi-weekly and/or monthly, and there is no deduction from this fixed rate based on the quantity or quality of the work.
2. a duties test
  - A duties test is different for executive, administrative and professional employees. The duties test is met by the actual work being done as opposed to "job titles" or written "job descriptions."

### Exemption as an Executive Employee

#### To Be Exempt as an Executive Employee, a Person Must:

1. customarily and regularly direct the work of two or more other full-time employees;
2. have management as his/her "primary duty;"
3. have the authority to hire and fire, or effectively to recommend such action or other changes in status;
4. customarily and regularly exercise discretionary powers;
5. spend no more than 20% of his/her hours in the workweek in activities not directly and closely related to the above duties, or 40% in a retail or service establishment
6. be paid "on a salary basis."

### Exemption as an Administrative Employee

#### To Be Exempt as an Administrative Employee, a Person Must:

1. have as his/her "primary duty;"
  - a. office or nonmanual work directly related to management policies or general business operations; or
  - b. performing work in educational administration, which work is directly related to academic instruction or training
2. customarily and regularly exercise discretion and independent judgment;

3. (i) regularly and directly assist a bona fide executive or administrative employees; or (ii) perform under only general supervision work that is specialized or technical and that requires special training, experience, or knowledge; or (iii) perform special assignments or tasks under only general supervision;
4. spend no more than 20% of his/her hours in the workweek in activities not directly and closely related to the above duties, or 40% in a retail or service establishment; and
5. be paid "on a salary basis."

## **Exemption as a Professional Employee**

### **To Be Exempt as a Professional Employee, a Person Must:**

1. have as his/her primary duty work which requires:
  - a. advanced knowledge customarily requiring extensive education; or
  - b. originality and creativity in a recognized artistic field; or
  - c. teaching or otherwise imparting knowledge as a teacher in a school or in an academic or educational institution; or
  - d. theoretical and practical application of highly specialized knowledge in computer systems analysis, programming, and software engineering in a computer/software occupation;
2. consistently exercise discretion and judgment;
3. perform work which is predominantly intellectual and varied, and which cannot be standardized in relation to a given period of time.
4. spend no more than 20% of his/her hours in the week in activities not essential and necessarily incidental to the above duties; and
5. be paid on "a salary basis."

## **Section 2 – Off Clock Work**

If you are a non-exempt employee (generally an hourly employee), and you are required to work "off the clock," you may be entitled to overtime compensation. Some examples of working "off the clock" are the following, but there are many, many more examples:

1. Manager requires you to complete a task before leaving work but complains it is taking too long and requires you clock out while requiring you to complete that task before leaving.
2. Uniforms are required and changed at work before a person clocks in and changed after a person clocks out.

If you are not familiar with the overtime laws in New Jersey, Pennsylvania, New York City, or Florida please [contact us](#) and ask to speak with one of our employment attorneys.