

# Arizona law requires timely overtime payment

*I am an hourly employee and overtime must be approved by a supervisor.*

*Last month, my boss OK'd some overtime for me. When I asked why my check hadn't reflected the additional pay, I was told that my boss hadn't gotten around to officially approving it in the paperwork.*

*I'm guessing once it is approved, the pay will show up in a future check. But, shouldn't overtime be paid in a timely manner?*

**Janet B. Hutchison**

*Davis Miles McGuire Gardner*

Arizona law requires that all employees in Arizona compensate their employees at least twice a month, with the paydays no more than 16 days apart. Unless specifically exempted, employees covered by the federal overtime requirements must receive overtime pay for hours worked in excess of 40 in a workweek at a rate not less than 1½ times their regular rates of pay.

You are correct that overtime pay due

to an employee must be timely paid. Arizona law, however, provides that the employer must pay employees for overtime no later than 16 days after the end of the most recent pay period. Based on your description, it may be that payment in the next paycheck would still be timely.

Employers should remember the overtime requirement generally may not be waived by agreement or policy. A policy that the employer will not pay for overtime work unless it is specifically authorized in advance does not impair an employee's right to receive payment for compensable overtime hours that are worked.

If the employer requests the work or knows, or has reason to know, that the employee is working, the employer may be deemed to have permitted the overtime work and must pay for such work. Likewise, employees should remember



**Janet B. Hutchison**



**Don Johnsen**

that if the employee works overtime that is not authorized under an applicable policy, although the employer must pay the employee, the employee may be subject to discipline for a violation of the policy.

**Don Johnsen**

*Gallagher & Kennedy*

Under Arizona law, employers generally must designate at least two specific days each month as paydays. The dates cannot be more than 16 days apart. That basically ensures that workers are paid roughly once every two weeks. Employers can pay more frequently if they choose, such as weekly.

On every payday, the employer must pay all wages due up to such date. However, the employer may utilize a waiting period of five working days to calculate the wages that may be due for that pay

period. The end result is that in many workplaces, the worker is paid a few days, up to a week, after the end of the pay period. That is legal in Arizona.

Overtime compensation that an employee has earned in any given pay period definitely constitutes "wages." Therefore, the employer must pay all such overtime compensation within five days after the pay period in which the overtime was worked. The employer should not withhold payment until some later time, such as when the supervisor submits some other paperwork "officially approving" the overtime.

By law, an employer who fails to pay wages promptly can be subject to a statutory penalty of three times the unpaid amount. If the employer refuses to pay for the overtime promptly — no later than five days after the pay period in which the overtime was worked — the worker may have a claim to the statutory penalty in addition to the overtime itself.

— *Compiled by Georgann Yara*

# Autism center board adds litigation attorney

**JOHN MCLEAN**

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**Nicole Goodwin**, a shareholder with **Greenberg Traurig** in Phoenix, has been elected to the **Southwest Autism Research & Resource Center's** board of directors. She is a litigator whose practice emphasizes corporate governance disputes, financial services litigation, real estate litigation, antitrust counseling and litigation, health care litigation, and fiduciary litigation. She received her law degree magna cum laude from **Seton Hall University School of Law** in 2001. Goodwin has supported and worked with SARRC as a member of the organization's Development Committee and now as chairwoman of the Governance Committee. She and her husband, Dan, have also co-chaired two of SARRC's Annual Community Breakfasts. The Goodwins have two sons, one of whom is on the autism spectrum.

## Promotions and hires

**Thomas C. Arendt** joined **Jennings, Strauss & Salmon** in Phoenix as a Member in the real estate department. He is experienced in acquisition and development of real estate, leasing, and real estate workouts and foreclosures. He is a



**Nicole Goodwin**



**Thomas Arendt**



**Kami Hoskins**

certified Real Estate Specialist with the Arizona State Bar Board of Legal Specialization. Arendt received his law degree cum laude from **Arizona State University College of Law** in 1982.

**Kami M. Hoskins** has been elected a Member at **Jennings, Strauss & Salmon** in Phoenix. She focuses her practice on bankruptcy, reorganization and creditors rights law, and labor and employment law. Hoskins received her law degree from the **University of Arizona James E. Rogers College of Law** in 2008.

## Awards and honors

**Elizabeth Gilbert, Whitney Harvey** and **Ashley Halvorson**, attorneys at **Jones, Skelton & Hochuli** in Phoenix, are members of the second graduating

class of the **Arizona Association of Defense Counsel's** Ladder Down Program, a year-long course created to provide women lawyers training on how to build a book of business and how to become better leaders. The program helps them to achieve positions as equity partners, shareholders and top rainmakers at firms across the nation. Gilbert practices on defending public entities against civil rights claims, such as excessive force claims, as well as discrimination claims. She received her law degree from **Arizona State University College of Law** in 1995. Harvey practices on general civil litigation, wrongful death and personal injury, commercial and business litigation, and dram shop and social host liability. She received her law degree from **Arizona State University**

**Sandra Day O'Connor College of Law** in 2010. Halvorson concentrates her practice on bad faith and extra-contractual liability, and insurance coverage. She received her law degree from ASU in 2009.

## Miscellaneous

**Arizona Summit Law School** in Phoenix has formed the **Center for Community Education** to provide training and certification in vital legal and regulatory matters to the community to better manage a range of legal issues. The Center will focus on conflict resolution, public policy and leadership, and business and industry leadership, as well as community zoning and planning.

Programs are being planned for weekends and evenings to accommodate the schedules of busy professionals and be taught by Arizona Summit Law professors. The first offering will be its Conflict Resolution program beginning this month and running through June. For a full schedule or to register contact the Center at [communityeducation@azsummitlaw.edu](mailto:communityeducation@azsummitlaw.edu) or 602-682-6935.

Send legal news to [john.mclean@arizonarepublic.com](mailto:john.mclean@arizonarepublic.com).