



Bank of televisions appears above attendees of the 2005 Consumer Electronics Show.
ARSH STARKS / STAFF FILE PHOTO

Gadget popularity codes well for CES

Kevin Rademacher / STAFF WRITER

Driven by consumers' appetite for MP3 music players, digital cameras and hundreds of other electronics gadgets, analysts with the Consumer Electronics Association expect electronics spending to increase by 9 percent this year.

Since 2000, total factory sales of consumer electronics have jumped from \$96 billion to \$158 billion.

That's great news for the industry and bodes well for Las Vegas' largest trade show, the annual Consumer Electronics Show. The 2006 version of CES, which runs Jan. 5-8, has already seen a record 1.66 mil-

lion square feet of exhibit space leased, and attendance is expected to be well north of 130,000 people, said Karen Chupka, CEA's vice president for events and conferences.

"By all indications, it's shaping up to be an exciting show," she said.

The show this year is spilling over from the Las Vegas Convention and Visitors Center, gobbling up additional space at the Sands Expo Center for its Innovations Plus center. There the show will tout such electronics developments as robotics and Internet-based television.

Beyond those confines, Chupka said CES

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Law on overtime pay not clear-cut

Worker-employer clashes often arise

By Alana Roberts / STAFF WRITER

The nation's overtime law has been in effect for decades, yet a recent U.S. Supreme Court decision highlights how the law continues to be a source of contention in the workplace.

The U.S. Supreme Court in November decided in favor of a group of meat processing plant workers in *IBP Inc. v. Alvarez*. The court determined that the time

workers spend walking from the area they don their protective gear to their work stations was work time and had to be paid. A previous decision determined that workers in that context are to be paid for the time it takes to put on the protective gear.

Justin Swartz, an employee's lawyer at New York law firm Outten & Golden LLP, said the Alvarez case draws similarities to one he filed in a federal court in New York state earlier this year against Nashville, Tenn.-based call center pro-

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vider ClientLogic. In the suit, Swartz represents about 300 call center workers, including some who worked at the company's Las Vegas operation.

The lawsuit claims that ClientLogic didn't pay workers for overtime work they were required to complete.

"The Supreme Court reaffirmed that the workday starts when you get to work," Swartz said. "When you leave work it ends."

He said he is seeking collective-action status for the case. That status is unique to certain laws such as the federal Fair Labor Standards Act, where potential plaintiffs must opt in instead of opting out, like in a class-action case.

In the ClientLogic case, the plaintiffs allege they were made to arrive early for work to boot up their computers and read e-mails about the products and services they were providing customer support for. Swartz said that after the work day ended call center workers were also required to perform tasks like paperwork and faxing information to customers.

"It (the decision) reaffirms that work includes tasks that are necessary to get ready for work in the chicken processing plant context," Swartz said. "Just like in the call center context the employer requires the employee to turn on the computer, read e-mails, read product updates and do other things to get ready for their shift."

When call volumes were low the workers were required to log off the phones, he said. During that time the workers weren't allowed to leave the premises. Swartz argues that time constitutes work.

He said the practices are both company-wide and industrywide.

"What happens is ClientLogic is an outsourcing company," Swartz said. "They're paid to do customer service for their clients, such as Microsoft (Corp.) and NetZero. The



The ClientLogic office at 420 Pilot Road is shown. SAM MORRIS / STAFF PHOTOGRAPHER

big companies pay ClientLogic based on how long people are on the phone. It's in ClientLogic's interest to minimize how much time workers are off the phone and being paid."

Amit Shankardass, a spokesman for ClientLogic, declined to discuss the merits of the case but said the company's employment practices are lawful.

"Understand ClientLogic has been in business for many years," Shankardass said. "We have over 8,000 employees across our network in the U.S. We have and continue to be a very fair and equitable employer. Our employment practices are very much in line with state and federal government rules and regulations."

Shankardass said if employees have grievances they are able to address them with company managers.

"Every employee has the ability to let

management within the site or outside of the site know of any breaks in policy," he said. "If we find any misdoings we immediately will correct it and have corrected it."

In an answer to the lawsuit, ClientLogic denied the workers' allegations.

Lyssa Simonelli, an employer's lawyer and partner at Kummer, Kaempfer, Bonner, Renshaw & Ferrario, said the FLSA is a difficult law for employers to comply with.

"The Fair Labor Standards Act is a pretty complex body of law," Simonelli said. "It is considered one of the trickier statutes for an employer to deal with. It's always a good idea, when a company has questions as to whether or not they're adequately compensating their employees, is talk with employment lawyers."

One of Swartz's clients, Daniel Miller, who worked at the Las Vegas ClientLogic office for eight months until September, said there's no excuse for employers not to pay overtime.

"There's no such thing as ignorance, that's just common sense and decency," Miller said.

Decency aside, employment lawyers for both sides agree that it is illegal to not pay workers for their labor.

"If you run afoul of the law, you're going to get hit," said Bill Daley, an employer's lawyer at the Las Vegas office of Lewis & Roca. "Somebody has got to complain, but they always do. It's always just a matter of time."

Daley said the courts and the U.S. Labor Department, like Miller, have little sympathy for employer ignorance of the laws.

"There's no defense to, 'I didn't know,'" he said. "The law says you should know."

Miller said his wage topped out at \$9.50 an hour during his time at ClientLogic. He said the company not only required employees to arrive early and to log out during slow calling times, but their breaks, including bathroom breaks were regimented. He said that created problems for him because he is

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The University of Nevada School of Medicine announced Dec. 14 that it has received



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off the phone. If you're one minute off or your schedule that's a tardy. Everything is controlled by when you're logged onto your phone."

He said company managers tried to be careful in the way they conveyed the company's policies about breaks, but he said their actions were what mattered.

"Say I'm on the phone with you and you go over my break time, I'm out of schedule adherence," Miller said. "Well they don't say this exactly. What they said is, 'We can't tell you you can't have your break.' But if you're out of adherence they do write-ups and they threaten to fire you."

Miller said he moved to the Las Vegas Valley in 2001 after hearing there was more work here than in Southern California where he had previously worked as a network security engineer. He said he had been laid off when the economy slowed.

After arriving here he found that because of his health he couldn't work at many of the jobs that are prevalent in the construction or hospitality industries. He said he was unable to find better-paying technology-related work here. Since quitting ClientLogic, Miller moved to Huntsville, Ala.

He recently joined the ClientLogic case after finding out about the lawsuit on the Internet.

"I didn't wake up one morning saying I'm going to sue ClientLogic," Miller said. "Justice is justice. The company is making a profit, and they're making a profit off of people like me. I do believe companies have a right to make a profit but not at the expense of the employee."

Daley said in light of the Alvarez case, employers should audit their employment policies to ensure they're in compliance with state and federal labor laws.

"Overall the Fair Labor Standards Act is a pretty easy law to run afoul of, there's so many nuances," Daley said. "Let's say you did an audit, I think you'd find more problems than you would expect to find in any given company."

Simonelli said employers should also be careful about allowing employees to do things like work through their lunch breaks or perform unapproved overtime work. She said that once an employee performs the work they must be compensated for it, but an employer has the ability to require them not to work overtime.

"I think essentially in this area of the law the biggest issue I see is unapproved overtime," Simonelli said. "What they have to do is make unapproved overtime a part of their disciplinary policy. If an employee works overtime that's not approved, although we have to pay you for it, you're going to be disciplined for it up to termination."

Alana Roberts covers courts and labor relations for *In Business Las Vegas* and its sister publication, the *Las Vegas Sun*. She can be reached by e-mail at alana@lasvegassun.com or at (702) 259-4059.

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that were located downwind during the 1950s and 1960s nuclear-weapons testing and development can participate in medical testing of cancer and other conditions associ-