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California Supreme Court Rules Employers Cannot Round Meal Period Time Punches

The California Supreme Court issued a ruling on February 25, 2021, holding that employers may not round employee time punches when employees clock in and out for meal periods.

Under California law, an employer may not employ an employee for a work period of more than five hours per day without providing the employee with a meal period of not less than 30 minutes —except when the total work period per day of the employee is no more than six hours, the meal period may be waived by mutual consent of both the employer and employee. A second meal period of not less than 30 minutes is required if an employee works more than 10 hours per day, except when the total hours worked is no more than 12 hours. Then the second meal period may be waived by mutual consent of the employer and employee if the first meal period was not waived.

Unless the employee is relieved of all duty during his or her 30-minute meal period, the meal period shall be considered an “on duty” meal period that is counted as hours worked, which must be compensated at the employee’s regular rate of pay. An “on duty” meal period shall be permitted only when the nature of the work prevents an employee from being relieved of all duty and when, by agreement between the employer and employee, an on-the-job paid meal period is agreed to.

Background

The employer in the California Supreme Court case had a policy of rounding time punches to the nearest 10-minute increment. This resulted in some meal periods being rounded up to 30 minutes even though the employee may have taken less than a full required 30-minute meal period. Although, on the whole, the employer’s rounding policy resulted in more employees being overpaid than underpaid, the Court found that, with respect to meal period punches, rounding was not permitted. It held that because California requires strict compliance with state meal-period requirements, a rounding policy applied to meal periods



was prohibited, as it could lead to employees receiving meal periods under 30 minutes. The Court found that even a seemingly minor infraction, such as an employee receiving a meal period of 28 or 29 minutes, would violate California's meal-period requirements. This, in turn, would obligate an employer to provide impacted employees with missed meal-period premium pay

Bottom Line

It is now clear that employers in California cannot use rounding policies for employees' meal punches. If an employer has nonexempt employees in California and their time and attendance system is configured to round employee meal punches, they should take necessary steps to correct the procedure in accordance with the California Supreme Court ruling.

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