

Practical Tips for Smart Businesses: Defending Meal and Rest Period Claims With Time Records

California has in place 17 industry-wide and occupation-wide wage orders which establish minimum wages, maximum hours and standard conditions of employment for virtually all employees in California. The wage orders provide in general that any employee working more than five hours is entitled to an off-duty meal period of not less than 30 minutes and that every employer shall “authorize and permit” all employees to take rest periods at the rate of 10 minutes rest per four hours or major fraction thereof worked. The penalty for failing to provide the required meal period or rest period is one hour of pay at the employee’s regular rate for each workday a meal or rest period is not provided.

When disputes arise as to whether the employer has complied with meal and rest period requirements, employers are at a disadvantage where their time records do not record meal or rest periods and the employee does not agree that he or she has been provided with required meal or rest periods. It is therefore recommended that employers include language on timecards whereby employees specifically agree that they have been permitted to take and have actually taken all required meal and rest periods during the pay period. Such language will be strong evidence in defeating later claims by an employee that he or she was not permitted to take required meal or rest periods.