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EMPLOYER'S SEVEN DEADLY SINS REGARDING CALIFORNIA MEAL PERIOD LAWS

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Employer's Seven Deadly Sins Regarding California Meal Period Laws

California Labor Code §226.7 provides that no employer shall require any employee to work during any meal period mandated by the applicable Wage Order promulgated by the Industrial Welfare Commission. The Wage Orders for each industry have stringent meal period requirements for all non-exempt employees. The following are seven of the most common violations of the California meal period laws.

1. Not requiring that an employee take a meal period. No employer shall employ any person for a work period of more than five hours without providing a 30 minute duty-free meal period.

2. Not requiring that an employee take a meal period before the end of the end of the fifth hour of work. The meal period must be taken before the employee has worked more than five hours. Employees should not be allowed to take the meal period later in the day even if they want to.

3. Not requiring that an employee take a full 30 minutes for the meal period. The meal period must be a full 30 minutes. Employees who do not take a full 30 minute meal period will be owed the penalty wages discussed below. Even a five minute discrepancy might result in a penalty wage of one hour's pay being assessed.

4. Not requiring that an employee take a duty-free meal period. The employee must be relieved of all duty during the meal period. If the meal period is duty-free the employer does not need to compensate the employee for the 30 minute meal period.

5. Not complying with the "on duty" meal period requirements. An "on duty" meal period shall be permitted only when the nature of the work prevents the employee from being relieved of all duty and when by written

agreement between the parties an on-the job period is agreed to. The written agreement shall state that the employee may, in writing revoke the agreement at any time.

6. Not recording the meal period. The employer must record the commencement and end of the meal period on the time card or other time-keeping system.

7. Not providing a second meal period, if the employee works more than 10 hours. If an employee works more than 10 hours in a workday, the employer must offer a second 30 minute, unpaid duty-free meal period, which may be waived by mutual consent. If an employee works more than 12 hours in a workday, the second meal period must be provided, and cannot be waived.

The Consequences

If an employee is not provided a meal period as required by the California Wage Orders, the employer owes the employee an additional hour of pay at the employee's regular rate of pay for each day of non-compliance. Other penalties, interest, and attorneys' fees may also be assessed.

Assistance

If you need advice and assistance in complying with wage and hour laws, please contact us at (213) 620-0460.

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