

2016 Wage and Hour Update: Don't Get Caught Unaware!



Pacific Crest Group thanks Shane Anderies, Esq. for the following wage and hour law updates. Shane is a very experienced employment litigation attorney. He represents employers in all aspects of work place law.

Please contact Mr. Anderies with Anderies & Gomes at andgolaw.com regarding questions about employment law.

2016 brought several significant developments in wage and hour law. Below is a brief summary:

Minimum Wage Increases

Both State and local minimum wages increased. California's minimum wage is now \$10/hour, which not only increases a nonexempt employee's hourly and overtime wages but also increases the salary minimum for exempt employees. Employers should also make sure that they are complying with local minimum wages, which often significantly exceed California's minimum wage. Berkeley, El Cerrito, Emeryville, Mountain View, Oakland, Palo Alto, Richmond, San Francisco, San Jose, Santa Clara, and Sunnyvale all have their own minimum wages.

Equal Pay Act Expansion

Employers are prohibited from paying women less than men for performing "substantially similar

work, when viewed as a composite of skill, effort, and responsibility.” This is a much broader standard than California’s previous law regarding equal pay. The new law also prohibits employers from preventing employees from discussing their wages and imposes additional recordkeeping requirements.

Expense Reimbursement Developments

Two significant developments regarding expense reimbursement include: (1) the IRS mileage rate decreased to \$.54 and (2) the Division of Labor Standards Enforcement (DLSE) can now issue awards for expense reimbursement. Previously, an employee had to file a lawsuit to recoup unpaid expenses; now, he/she may file a claim with the DLSE, which is a much simpler process.

Four Ways to Provide Paid Sick Leave

Effective July 1, 2015, employers had to provide paid sick leave to employees who worked at least 30 days per year. To comply, employers may:

1. Provide one hour of paid sick leave for every 30 hours worked; or
2. Use an accrual rate that will give employees at least 24 hours or three days* of sick leave or PTO by the 120th calendar day of employment; or
3. Use an accrual rate that will give employees at least 24 hours or three days of paid sick leave by the 120th calendar day of employment; or
4. Give employees a lump 24 hours or three days of paid sick leave at the beginning of each year.

*Note: per the DLSE, “three days” means at least 24 hours but possibly more, if an employee regularly works more than eight hours per day.

Additional Protections for Piece Rate Employees

Employers must now pay piece rate workers additional pay for non-productive, compensable time and rest periods, and show such time and associated pay separately on paystubs.

Time Spent Commuting in Company Vehicles May Be Compensable

If employees are required to use employer provided transportation during their commute from home to their first work assignment, such commute time may be compensable work time. If, however, employees are not required to use employer provided transportation, the time is not compensable, regardless if they ultimately use the employer provided transportation.

Wage Theft Bill Increases Liability for Employers

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Employers found to have violated wage payment laws can be required to post a bond of at least \$50,000 to continue doing business in California, and the Labor Commissioner may seek liens on an employer's property or a levy against a violating employer's bank accounts. Individuals deemed "responsible" for an employer's wage and hour violations may be held personally liable.

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