How Not To Stub Your Toe On Pay Stub Claims

Insights
1.01.18

Perhaps no law is a better example of California's finicky wage and hour rules than Labor Code section 226, which governs the format, content, and issuance of pay stubs. Even well-intentioned and otherwise careful employers can find themselves on the defensive over seemingly innocuous and ministerial mistakes, despite their great efforts to ensure compliance with state wage laws. Rather than eliminating the problem, new technology has in many cases only complicated the matter by raising new questions on how to program computer systems (often designed without California's highly specific regulations in mind) to produce compliant statements.

Many employers have paid out thousands of dollars – and in some cases millions – in penalties in class action settlements, often eclipsing the value of actual underpaid wages. One employer that recently faced a class action pay stub claim chose not to settle, and instead put the claims to the ultimate test – trial before a jury.

Employer's Innovative Approach Draws Attention Of Hopeful Plaintiffs
Dollar Tree Stores provided several thousand of its California associates with the option of printing pay statements via the stores' computerized cash registers. This novel system was meant to serve as a creative and convenient solution to a legitimate problem – many employees did not have internet access or a printer at home, and many stores did not have traditional computer systems available for accessing and printing wage statements.

The wage statements, although printed on cash register receipts, included all nine categories of information as required by law, including the dates of the pay period, the employee's name and ID number, Dollar Tree's name and address, hours worked, rates of pay, gross and net wages, and deductions. But this was not enough to satisfy Francisca Guillen, an employee who decided to challenge this system as a violation of California law.

Guillen argued that the company's approach was inconsistent with guidance published in 2006 by the California Department of Labor Standards Enforcement (DLSE). Specifically, she pointed to the requirement that when wage statements are provided by way of an electronic system rather than on paper, employees should be able to easily access the information, convert the statements to print at no expense to themselves, and retain the right to receive printed wage statements. Guillen complained of difficulties printing the wage statements via the cash registers and brought a class action suit in California federal court.

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Dollar Tree argued that the DLSE guidance did not have force of law and should not be interpreted as such. Even so, the employer argued, it had complied with the guidance because employees could access, view, and print the information through the cash registers at work at no cost. Moreover, all employees, including Guillen, had the option to receive wage statements on paper by having them sent to their store locations, if desired. Finally, Dollar Tree argued that, even if it was found to have technically violated the statute, a plaintiff is also required to prove an actual "injury" due to such a violation. Because she always had access to all the information about how her pay was calculated, it argued Guillen did not suffer any such injury.

Gamble Pays Off With Trial Victory

After debate between the parties concerning how to instruct the jury on the law, including the DLSE's opinion, the judge ultimately directed the jury to decide a single issue – whether Guillen and other Dollar Tree employees retained "easy access to their electronic wage statements." The jury decided that employees did have such access, and the court gave judgment in Dollar Tree's favor on November 15, 2017.

Although Guillen has filed an appeal, the case illustrates that employers can fight – and win – legal challenges under California's stringent wage and hour laws, even at jury trials. You should do all you can to comply with the state's hypersensitive pay stub law, but if faced with a challenge, consider following Dollar Tree's lead (or at least using this case as a weapon) and fighting for your rights as an employer.

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