



Landmark Decision Limits "Reporting-Time" Pay and Clarifies "Split-Shift" Premium Requirements

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A California appellate court has just handed down a major decision on reporting-time pay in California, limiting situations where such pay would be due, and rejecting an enforcement guideline used by the California Labor Commissioner. The court also clarified the law regarding split-shift premiums. *Michael Aleman, et al v. AirTouch Cellular*.

During the past few years, California employers have been increasingly vulnerable to "reporting time" claims, which typically arise when employees show up for work and are not given at least half of the usual or scheduled day's work. In such situations, the Wage Order provides that each workday when an employee is required to report for work and does report, but is furnished less than half the usual or scheduled day's work, the employee shall be paid for half the usual or scheduled day's work, but in no event for less than two hours nor more than four hours, at the employee's regular rate of pay.

If the employee is required to report a second time, and is furnished less than two hours of work on the second reporting, said employee shall be paid for two hours at the employee's regular rate of pay. The Labor Commissioner traditionally has taken an aggressive position against employers, requiring them to pay employees either two or four hours reporting-time pay when they show up for previously scheduled meetings of short duration.

In this class action, the employees sought a minimum of two hours reporting time pay for instances when they attended semi-monthly or monthly "store meetings" scheduled at least four days in advance. Rejecting the Labor Commissioner's approach, the Second Appellate District ruled that because the employees showing up for the meetings were furnished "work" of at least half of the scheduled meeting time, they were not entitled to any reporting-time pay. The court further held that, in instances where work of a specific duration was previously scheduled, the length of the employees' "usual" work day was irrelevant in determining the amount of minimum reporting time pay due.

A further clarification was provided regarding split-shift premiums. To protect employees paid at minimum wage, California requires employers to pay employees a "split shift" premium of one hour at the minimum wage, if the employee works two separate shifts in a day. The court rejected the employees' claim for split-shift premiums, ruling that, because they were paid an hourly rate over

the state minimum wage, the surplus amount over the minimum wage could be accumulated to satisfy the one-hour split-shift premium requirement. In effect, employees working split shifts must be paid at least the minimum wage (\$8.00) for all hours worked, plus one hour at the minimum wage.

The court's ruling signals great news for employers who may now schedule short meetings or work projects without being required to add reporting time premiums as long as the meetings last at least half of the scheduled duration.

Our advice for employers is to 1) schedule all meetings and other events of short duration as far in advance as possible to avoid running into problems regarding reporting time; 2) indicate the precise length of the meeting and make sure employees record their time at the meeting; and 3) make sure the meetings last at least half as long as scheduled. With regard to split shifts, employers should make sure they are taking advantage of the proper formula for determining split-shift premium compliance.

For more information about how this decision could apply to your operation contact any attorney in one of our California offices:

Irvine: (949) 851-2424

Los Angeles: (213) 330-4501

San Diego: (858) 597-9600

San Francisco: (415) 490-9000

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