



Employment Law Update

CALIFORNIA SUPREME COURT DECIDES LANDMARK MEAL PERIOD AND BREAK CASE

On April 16, 2007 the California Supreme Court issued its opinion in *Murphy v. Kenneth Cole Productions*. The decision greatly expanded the rights of employees to collect damages for missed meal periods and breaks.

The issue before the Court was whether the “one additional hour of pay” for a missed meal period or break provided for in Labor Code section 226.7 constitutes a wage or premium pay subject to a three-year statute of limitations (Code Civ. Proc., § 338) or a penalty subject to a one-year statute of limitations (Code Civ. Proc., § 340). The Court held that the remedy provided in Labor Code section 226.7 constitutes a wage or premium pay and is governed by a three-year statute of limitations. As a result employees can recover three years of back pay for missed meal periods and breaks instead of only one year

Under the Labor Code virtually every employee in California is entitled to two paid-ten minute breaks in an eight hour workday and a one half hour unpaid, uninterrupted meal period. “An employer may not employ an employee for a work period of more than five hours per day without providing the employee with a meal period of not less than 30 minutes, except that if the total work period per day of the employee is no more than **six** hours, the meal period may be waived by mutual consent of both the employer and employee.” And, “If an employer fails to provide an employee a meal period or rest period in accordance with an applicable order of the [IWC], the employer shall pay the employee one additional hour of pay at the employee’s regular rate of compensation for each work day that the meal or rest period is not provided.”

Ezra | Brutzkus | Gubner LLP offers its clients advice and counsel in all areas of labor and employment law . **Richard L. Mann** has 30 years of experience representing employers around the nation in all aspects of labor and employment law including discrimination, wrongful termination and wage-hour disputes and traditional labor relations. Mr. Mann has represented employers in a variety of industries including apparel, hospitality, manufacturing, transportation, entertainment, packaging and various service industries.

The E|B|G Update is intended to present a brief overview of current legal issues. Nothing contained in this Update should be understood to be legal advice on a specific, individual matter. It is general commentary on the subjects discussed. Your questions and comments are welcome.