

Blog Post

California Employers May No Longer Round Time for Meal Periods

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California employers may not apply time-rounding procedures to meal period time entries, based on a recent California Supreme Court decision. The decision provides two key takeaways for California employers:

- California strictly construes the requirement that employees must be provided a 30-minute meal period before the end of the fifth hour of work; thus, because rounding procedures obscure whether meal periods were fully or timely provided, employers may not round punches for meal breaks.
- Time records showing non-compliant meal periods raise a rebuttable presumption of meal period violations, so employers should consider developing policies and practices that records an employee's voluntary choice to skip, or take only portion of, their meal period. Because the question of why an employee fails to take a meal period appears to remain an individual question of fact, records distinguishing the reasons an employee did not take a meal break, in the face of a compliant written policy, may help employers defeat the rebuttable presumption and class certification.

In the case, a medical staffing company used an electronic timekeeping system called "Team Time" that rounded time punches to the nearest 10-minute

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interval. The court noted that, for example, “if an employee clocked out for lunch at 11:02 a.m. and clocked in after lunch at 11:25 a.m., Team Time would have recorded the time punches as 11:00 a.m. and 11:30 a.m. Although the actual meal period was 23 minutes, Team Time would have recorded the meal period as 30 minutes. Similarly, if an employee clocked in for work at 6:59 a.m. and clocked out for lunch at 12:04 p.m., Team Time would have rounded the time punches to 7:00 a.m. and 12:00 p.m. In that case, the actual meal period started after five hours and five minutes of work, but Team Time would have recorded the meal period as starting after exactly five hours of work.” As a result, the automatic rounding procedure would make technically noncompliant meal periods appear to comply with the meal period requirements. Finally, the Team Time system required employees to *proactively* indicate that their meal period was missed, short, or late.

In moving for summary judgment, the company argued its rounding policy was proper because 1) the evidence showed it did not have a uniform policy or practice of denying employees compliant meal periods and 2) the rounding policy was generally favorable to employees because the company sometimes paid employees for a few extra minutes they did not work.

In ruling against the company, the Court held that records that demonstrate a non-compliant meal period raise a rebuttable presumption of labor code violations. The Court found the evidence that the Team Time system required employees to *proactively* indicate that their meal period was missed, short, or late, coupled with the fact that the rounding policy would inevitably lead to employees not receiving a full 30-minute meal period, was sufficient to suggest that employees worked more than five hours before taking their meal break.

In considering this evidence, the Court confirmed the presumption can be overcome by presenting

evidence that either (1) the employees were compensated for noncompliant meals or (2) the employees were provided compliant, 30-minute, duty-free meal periods, which the employees voluntarily waived.

The Court went so far as to suggest ways that an employer could adequately record an employee's voluntary decision to not take a full meal period. In particular, the Court acknowledged that Team Time had a drop-down menu feature that was presented to an employee seeking to clock out at the end of the day, which asked the employee to confirm whether a meal break violation actually occurred, or the non-recorded full and timely meal was the result of the employee's own choice(s). Had the timekeeping system not rounded the time punches, the employer may very well have avoided litigation, as employees that took noncompliant meal periods would have been prompted with the drop-down menu upon clocking out.

In large part, the case confirms the Labor Code mandate that a meal period must be no less than 30 minutes and must occur before the end of the fifth hour, and employers must disable rounding procedures to the extent that they obscure meal period compliance. Because employers must correctly compute both the length of the meal period and whether it was delivered at the proper time during the shift, employers practically must record an exact time at every time punch. Indeed, even the end of the shift is relevant to the extent that it may define a shift as less than six hours for waiver purposes, or 10 or more hours for purposes of providing a second meal period. Thus, while the case did not affirmatively end time clock rounding in California, as it did not overrule prior decisions relating to neutral time clock rounding policies, its holding may make continued rounding untenable.

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