
WAGE AND HOUR ISSUES FOR EMPLOYERS IN THE 21ST CENTURY

Wage and hour issues have been some of the most fertile plowing ground for employee counsel over the past number of years. Not only have there been a number of claims made by individuals, but a number of class actions have also been brought across the country.

In the State of Washington, employers must comply not only with the U.S. Department of Labor Requirements but also with Washington State laws. Ultimately those laws which are more liberal and more employee-oriented are the laws which will apply.

Much of the litigation has involved issues of break and meal periods, although those issues frequently overlap with matters relating to overtime pay.

The following is a brief synopsis of some key requirements that Washington employers must follow:

1. Break Time. Employees must be provided a 10 minute break for every 4 hours worked and must be paid for this break time.
2. Meal Periods. An employee must be provided at least a 30 minute meal period for every 5 hours worked. It is not necessary to pay the employee for the meal period. However, it is imperative that the meal period be a bona fide meal period that is total rest time. During the time of the meal period, no work must be performed nor must an employee be available for work during that time period such as remaining at their desk. It is not necessary that the employee be allowed to leave the premises so long as the employee has no work duties.
3. Waiting Time. Generally, to determine whether waiting time is compensable you must look at the overall circumstances. If the employee was hired to wait, then the employee would be compensated. But if the employee was waiting so they could work, the employee need not be compensated.
4. On Duty and Off Duty. An employee must be compensated for on duty work. On duty work is where an employee is unable to use their time effectively for their own purpose and the time in question is ultimately controlled by the employer. An employee need not be paid for off duty time. Off duty time is where the employee is completely relieved of any responsibilities and has adequate time between the employee's responsibilities to use the time in question for their own purposes.
5. On Call Time. If an employee is required to stay at the employer's premises, it is considered working time and must be compensated. If the employee is allowed to leave the premises and has adequate time to use the time in question for their own purposes, the employee need not be compensated.

6. Required Days Off Based on Days Worked. Washington employers need not be concerned with this issue, although some states do require employees receive one day off work out of every 7 days, such as California.
7. Maximum Number of Hours in a Week. Washington employers need not be concerned with this issue. The only state with a maximum number of hours for the average employee is California with 72 hours.
8. Travel Time. Generally, travel time (away from home) is not compensable unless the travel takes place during normal business hours (respective of whether it is a normal work day).
9. Meeting Place. Employees who must report to a meeting place to receive instructions as to where to work that day or employees who are required to perform work at multiple sites are compensated for their travel time, both from the time they arrive at the meeting place and for the time between sites.
10. Training and Meeting Time. Training and meeting time generally must be compensated unless an employer is able to meet all of the following criteria: (1) the attendance is voluntary; (2) the employee performs no productive work during the meeting or training time; and (3) the meeting takes place outside of regular working hours.

A workplace with a clear and consistent application of the wage and hour laws will provide the greatest protection from any wage and hour claims. If you should have any further questions regarding any wage and hour issues, please feel free to contact the Employment Rights, Benefits and Labor Group at Ryan, Swanson & Cleveland, PLLC.