



Could This Be You? Does Your Timekeeping System Automatically Deduct Time for Meal Periods?

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If your answer to the question above is “yes,” then continue reading about the significant legal exposure your organization may be facing.

On April 18, 2012, a former employee filed suit against his former employer in Cleveland, Ohio for allegedly failing to pay the employee and at least 100 other similarly situated employees for meal periods during which they claimed to have performed work.¹ On behalf of all those employees involved in this Fair Labor Standards Act (FLSA) collective action, the complaint seeks damages for unpaid wages, overtime compensation, liquidated damages (i.e., double damages), and attorneys’ fees and costs.

The employees at issue in the above lawsuit were classified as non-exempt, meaning that, under the FLSA, they were entitled to minimum wage as well as overtime compensation (time and a half) for all hours worked over 40 in a workweek. According to the complaint, the employer automatically deducted 30 minutes from the employees’ pay each day for a meal period, despite the fact that the employees frequently did not actually receive a meal break or were required to perform work during their meal period. As a result, the employees were allegedly denied pay for time worked and also significant amounts of overtime compensation. The employer at issue now faces expensive and time-consuming litigation, and, if the former employee’s allegations prove true, potentially substantial monetary liability.

The practice of making automatic time deductions for meal breaks (e.g., 30 or 60 minutes) is not uncommon among employers. Unfortunately, it creates significant pitfalls. Under the FLSA, bona fide meal periods are not considered “hours worked” and, thus, need not be paid. However, to be bona fide, the employee must be completely relieved from duties during the entire meal period (ordinarily, 30 minutes or more is sufficient). If the employee performs work during the meal period, it is likely not a bona fide meal period, in which case the employee would be entitled to compensation for the entire period.

If your company employs such a timekeeping system, you must make certain that either: (a) each employee is completely relieved of all duties for the entire meal period, or (b) the automatic deduction is consistently being overridden for all circumstances in which employees perform work during their meal break (whether specifically instructed to perform the work or not). Otherwise, your organization is likely running afoul of the FLSA and may face costly litigation.

What’s more, as demonstrated by the case above, litigation on this issue is ripe for being asserted as a collective action, given that timekeeping systems of this nature typically affect large groups of individuals on a similar basis.

Footnotes

Authors
