

THE CALIFORNIA EMPLOYMENT LAW CORNER

“THE

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When it comes to meals, breaks and overtime rules, employers make mistakes which are extremely costly but completely avoidable when the employer follows the basic rules. Below is a brief review of the meal rules, but all employers should contact the California Employment Law Training Center at 925 827 4198 or their legal counsel for specific questions and situations.

Meal period after 5 hour of working

After 5 hours of working, the employer must relieve the employee of all duties

for not less than 30 minutes so the employee can take a meal period. This assumes the employee will work a regular 8 hour shift.

If an employee will not work more than 6 hours in a day, the meal period may be waived by mutual consent of both the employer and the employee. It would be prudent for the employer to have the employee write out in the employee's handwriting that he/she voluntarily waived the meal period because he/she is only working a 6 hour shift. The employer should sign that it consents mutually to the waiver.

A second meal period will be required if the employee will work more than 10 hours in a day, except if that employee does not work more than 12 hours in that day, the second meal period may be waived by mutual consent.

Failure to provide the meal period

Any employer who fails to adhere to the above must pay that employee one additional hour of pay at the

employee's regular rate of pay for each work day that the meal period is not provided. The additional hour is not counted as overtime.

Employers who have questions such as “what do I do if I allow the employee to take a meal period, but he/she refuses to get a meal”, or “what do I do if the employee forgets to clock out for the meal period, how do I remedy?” or other legal questions regarding wage and hour rules and regulations may contact the California Labor Commissioner at www.DIR.ca.gov or retain the legal consulting services of the California Employment Law Training Center at 925 827 4198 or www.CAELTC.com, a Martinez Chamber of Commerce Member.

This is a regular column for the Martinez Chamber of Commerce Newsletter. However this is an informational column only and nothing written may be construed as legal advice. All readers should consult with a legal professional.