

Failure to Provide Meal and Rest Period Equals Two Violations

(February 23, 2011) Failing to provide an employee with a meal period and a rest period in the same day amounts to two violations, according to the California Court of Appeal.

In a February 16 decision, the 2nd District Court of Appeal found that the employer owes the employee for two violations because the requirement to pay a “premium wage” is contained in two separate sections of the Wage Orders.

The requirement to pay an additional hour of wages for a violation is found in Labor Code Section 226.7, which discusses the remedies for a meal period violation and a rest period violation together, rather than in separate sections.

The actual language of the law itself, however, states that if a meal or rest period is not provided, the employer owes the employee one hour of pay “for each work day that the meal or rest period is not provided.”

The court reviewed the legislative history of Labor Code Section 226.7 and concluded that the Legislature intended to match the Wage Order provisions, which clearly provide for two separate remedies — one for a violation of the required meal period and one for a violation of the rest period.