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LEGAL UPDATE | New California Ruling Changes The Rules of On-Call Shifts

Due to a recent California Court of Appeal ruling, employers must now pay employees “reporting time pay” when employees are required to call their worksite two (2) hours prior to a scheduled on-call shift and must report to work for that shift if the employer requests. In *Ward v. Tilly’s, Inc.*, the Court made clear that this ruling applies prospectively and not retroactively.

California’s Industrial Welfare Commission (“IWC”) wage orders require employers to pay employees “reporting time pay” for each workday an employee is required to report for work and does report but is not put to work or is put to work for less than half of their usual or scheduled shift. Employers must pay the employee reporting time pay, which is half of their scheduled shift at their hourly rate, or a minimum of two hours. Traditionally, “reporting time pay” was only owed if an employee physically reported to work but was sent home due to business needs. However, this ruling broadens the interpretation of “reporting time pay” in favor of employees.

In *Ward vs. Tilly’s Inc.*, Tilly’s employees were scheduled as “on-call” and required to call in to their store two hours prior to the start of their shift. The employees were required to work that shift if the store requested them to do so and employees were disciplined if they failed to contact their stores, if they contacted the stores late, or if they refused to work. The employees brought a class action lawsuit against Tilly’s claiming that, under these practices, the employees were owed reporting time pay.

Tilly’s argued that “reporting time pay” was not owed because the employees did not physically report to their stores. This Court disagreed, concluding that “reporting to work” does not have a single meaning, and does not necessarily only mean that an employee must physically show up for work at a particular time. The Court further reasoned that on-call shifts take a toll on employees as they are forced to make, among other things, childcare and financial arrangements. As such, the Court sided with the employees and held that Tilly’s owed them reporting time pay.

Employers should immediately consider how on-call shifts are handled as these practices may now warrant reporting time pay. Keep in mind that this ruling also extends reporting time pay to situations where an employee is required to log on to a computer remotely to determine if they must report to work or appear at a client’s job site.

Questions? Contact Stokes Wagner.