

California: State Supreme Court Rules Break Premiums are Wages and Subject to Penalties

On May 23, 2022, the Supreme Court of California ruled in [Naranjo v. Spectrum Security Services](#) that extra pay for missed breaks is considered wages under Cal. Lab. Code §§ 203 and 226 and must be:

- Reported on employee wage statements when they're working; and
- Paid in their [final paycheck](#) within legal deadlines. The default deadline for paying employees who resign is immediately when they quit if they gave sufficient advance notice and within 72 hours if they didn't give sufficient notice.

According to the court's analysis, "California law requires employers to provide daily meal and rest breaks to most unsalaried employees. If an employer unlawfully makes an employee work during all or part of a meal or rest period, the employer must pay [them] an additional hour of pay." This additional hour is the extra pay for missed breaks (missed-break premium) the court addressed and determined to be reportable and payable as wages under §§ 203 and 226.

The court continues: "Although the extra pay is designed to compensate for the unlawful deprivation of a guaranteed break, it also compensates for the work the employee performed during the break period. The extra pay thus constitutes wages subject to the same timing and reporting rules as other forms of compensation for work."

Subsequently, finding the missed-break premium pay as wages subject to California Labor Code's timely payment and reporting requirements supports § 203 waiting-time penalties and § 226 wage statement penalties, and employers can now be penalized for not reporting them on paystubs or paying them upon termination.

California: West Hollywood Amends its Minimum Wage and Leave Ordinance

On May 12, 2022, the West Hollywood City Council approved amendments ([Ord. No. 22-1180](#) summary) to and [regulations](#) for the city's minimum wage and leave ordinance. Some changes include:

- **Employee count calculation changed to per quarter:** For existing employers, employee count is calculated based on the employer's average number of employees per quarter (during the most recent calendar year to account for any employee fluctuation throughout the year). For new employers, an initial determination of employee count is based on the actual number of hires at the time they open. Thereafter, their employee count is determined by the average number of paid employees per week in the first 90 days.
- **New waiver available for leave provisions:** Employers that can demonstrate the leave requirements would cause them to declare bankruptcy, shutdown, reduce their workforce by more than 20 percent, or curtail their employees' total hours by more than 30 percent may qualify for a one-year waiver for the leave provisions. Employers that apply for a waiver need to let their employees know about it.

The new regulations also discuss:

- Guidance for payment of the citywide minimum wage, qualification of employers outside the city, and calculation of consumer price index.
- Guidance for the leave provisions and how employers can apply for a waiver.

The city's [website](#) provides more information.