



# The Green Law Group, LLP

Construction and Business Attorneys

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## Paying Wages Accurately

California labor and employment laws can be confusing and difficult to navigate for employers and business owners. The bulk of employment regulations are designed to protect employees' rights and will *heavily* favor the employee in disputes regarding the amount of wages owed.

There is no way to guarantee that your business will not face lawsuits from current or past employees. However, there are several steps an employer can take to minimize the risk of being sued.

### **Keep Accurate Records**

A consistent risk reduction tool across business practices is the creation and safekeeping of proper documentation because legal disputes require scrutiny by strangers who were not present at the time of the events. Keeping records of wage statements and hours worked is not only a good business practice but is usually *required by law*. An employer should keep records of hours worked and wages paid for all employees for the duration of their employment and for no less than three years after the employee separates from the company. Labor Code 226 also requires that an employee be allowed to inspect these records upon request.

### **Provide Accurate Wage Statements**

Labor Code 226 requires employers to provide detailed wage statements to employees every pay period. There are several items that the wage statements must include. Using a payroll service *does not guarantee* that wage statements comply with the law. Therefore, an employer should carefully analyze wage statements to ensure they contain all of the following items:

- Employee's name
- Legal business name
- Legal business address
- Net wages earned
- Other paid time off available
- Total hours worked
- Gross wages earned
- All deductions made
- Amount of available sick leave
- Start date of pay period
- End date of pay period
- All applicable hourly rates and hours worked at each rate

If an employee is paid at a piece-rate instead of hourly, then that rate, and the number of pieces of work should also appear on the statement. The wage statements also *should not* contain the employee's full social security number, but should use the last four digits or another employee identification number.

If a wage statement does not contain all the required information the employee could recover \$50 the first time and \$100 for each subsequent wage statement containing



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an error. This penalty is for each employee, so the costs of non-compliant wage statements could add up very quickly.

### **Pay Employees On-Time**

Most employees must be paid at least twice a month under Labor Code 204. If an employer pays twice monthly, the work performed from the 1st to the 15th of the month must be paid by the 26th, and the work performed from the 16th to the end of the month, must be paid the 10th day of the following month. If an employer chooses to pay weekly or biweekly then they must provide payment within 7 days of the end of the pay-period.

When an employee is terminated, the employer must pay *all wages due at the time* of termination. This includes any accrued vacation time that the employee has earned. The same is true for an employee who resigns after giving at least 72 hours notice. If the employee quits without giving notice, the employer should still pay all wages due at that time if the employer is able to. However, if it is not possible to cut a check on the spot, the employer must provide final pay within 72 hours after the employee resigns. If an employer fails to promptly provide final pay, they may have to pay up to a month of wages as an additional penalty. Final paychecks must include accrued vacation and all earned but unpaid wages.

### **Pay the Right Rate**

Unless an employee is properly classified as exempt then the employee is entitled to premium pay rates for overtime. Generally that means 1.5 times their normal rate for any time worked beyond 8 hours in one day or 40 hours in one week. An employee is entitled to 2 times their normal rate of pay for any time worked beyond 12 hours in one day. If an employee works all seven days in a week, the employer must also pay overtime for the first 8 hours worked on the seventh day, and double time for any additional time worked that day. Many employers might also pay a different rate for drive-time, this rate should also be multiplied by the applicable rate for any overtime driving the employee is required to do.

With all of these factors in place it is often possible an employee will have several pay-rates for different hours worked during a pay period. It is important to pay close attention, not only to ensure the proper rates are paid, but also that the rates and hours worked at each rate appear on the wage statement.

### **Prevention is Far Less Expensive Than Cure**

The Green Law Group offers a complete human resources package as part of our employment law services. Services available include an arbitration agreement, sample hiring forms and required disclosures and an employee handbook tailored to meet your business' specific needs. The Green Law Group can also assist with preparing job



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descriptions, offer letters, commission agreements, employment contracts, severance agreements, internal investigations into workplace complaints, and negotiation and defense of claims and litigation.

If you have any questions or comments regarding this article, please do not hesitate to contact Daniel Spurgeon at The Green Law Group, LLP.

*Please note that this article is only intended to provide some general educational information. For your particular legal questions, be sure and consult with an attorney.*

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