

California Court Finds Compensation Scheme does not meet Salary Basis test, Denies Exemption

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The California Court of Appeals recently considered whether a compensation scheme which is based solely upon the number of hours worked, with no guaranteed minimum, may be considered a “salary” within the meaning of wage and hour laws.

In this case, the plaintiff-employee was an insurance claims adjuster who was paid \$29 per hour with no minimum guarantee. He was not paid any overtime pay for hours worked in excess of 40 per week or 8 in a day. He brought suit against his employer claiming he was entitled to overtime pay. His employer countered, claiming that the employee was exempt from the receipt and payment of overtime by virtue of the administrative exemption of the Industrial Welfare Commission Wage Order No. 4. The case went to trial on undisputed facts set forth in written stipulations.

At the time of the trial court’s determination, the California Supreme Court was in the midst of considering whether insurance adjusters were not exempt as a matter of law. The trial court accordingly looked to federal regulations which stated that “insurance claims adjusters generally meet the duties requirements for the administrative exemption,” and concluded that the employee was exempt. The employee appealed.

The California Court of Appeals reversed the trial court’s decision. The Court examined the employee’s compensation to determine whether it satisfied the exemption. In this case, the employer’s method of paying the employee did not ultimately comply with the regulations because payment on salary basis requires that an employee be paid at least a guaranteed amount (double the minimum wage) which is not subject to reduction. Here, the employee would make less money if he worked fewer claims; thus, he did not get a predetermined amount and his pay was subject to reduction based on hours worked. The Court found that the employer could not prove the exemption.

Determining the appropriate classification for your employees can be tricky, particularly where there are both federal and state law considerations at issue.

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Topics

Wage And Hour, California, Exemption