

Why Employers need to keep Adequate Records

1 min read

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Here is a pattern that tends to repeat itself often in employment litigation. A disgruntled employee sues an employer for discrimination, harassment, or wrongful termination. A lawsuit is filed. And then, the attorney who files the suit includes wage and hour claims — i.e., the non-payment of overtime, meal and rest breaks. The employee may also include a claim based on the failure to reimburse the employee for expenses incurred in the course of his or her employment.

Why do these causes of action almost invariably get thrown in? For two reasons.

1. The law puts the burden on the employer to keep accurate records. If the employer's records of compliance with wage and hour laws are inadequate or are missing, in litigation the employee may be able to meet their burden of proof in wage actions simply with testimony showing that they have in fact performed work for which they have not been compensated. Further, employers can be subject to civil penalties for failure to keep adequate records.
2. An employee may obtain reasonable attorney fees in a successful wage and hour claim or for reimbursement of expenses. A relatively small error in payment of wages can result in tens of thousands, sometimes hundreds of thousands, in attorney fees.

In sum, employers need to make sure they are in compliance with the Federal and California laws governing the keeping of employment records. A lawsuit that begins as a discrimination or wrongful termination case may quickly evolve into a situation where the employer has the burden of proving its compliance with California and Federal compensation laws.

For more information on ensuring that you are in compliance with California and Federal compensation laws, please contact [Michael Newman](#).

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Topics

Wage And Hour, Wrongful Termination, Meal & Rest Break