

California Court Okays Hour Rounding Policy

2 min read

Jun 26, 2018

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In [AHMC Healthcare, Inc. v. Letona](#), decided earlier this week, a California state of appeals court considered an employer's use of a time clock rounding system and whether it violated California Labor Law. While it is a California case, it rests on the federal regulation governing time rounding found in 29 CFR § 785.48 and is thus an instructive case for all employers who use or are thinking about adopting a rounding policy.

The employer's time system rounded employees' time in and out and for meal breaks to the nearest quarter hour instead of using exact punch times, resulting in the plaintiffs losing a few hours of pay over an extended period. Other employees came out even, while others were overpaid.

Time rounding is expressly permitted under § 785.48(b), which allows employers to round to the nearest five minutes or to the nearest one-tenth or quarter of the hour. As long as the rounding system averages out over time, i.e., neither overly favors the employee or the employer, the system is typically valid. The goal is to have a facially neutral policy. This does not mean that it must be neutral for every employee for every pay period. According to the court, that would "undercut the purpose" and "gut the effectiveness of the typical rounding policy." So long as time rounded averages out over time and there is no evidence that the employer is using the rounding system to overpay lower paid employees while underpaying higher wage earners, systems like those at AHMC Healthcare are well within California (and federal) law.

Employers often face off-the-clock claims, especially where the employer's doors are open early and employees arrive, punch in and go about their personal business before starting work. There is no wage violation if the employer does not pay the employee for the time she attended to personal business, something § 785.48(a) expressly addresses. However, it leaves employers susceptible to the cagey employee who claims she was working during the few minutes between her punch in time and scheduled start time. A proper rounding policy can effectively eliminate this type of off-the-clock claim, which is typically brought as a class or collective action. Those employers that are worried about such off-the-clock

claims or have other concerns about employee timeliness should consider whether a rounding system will properly address such concerns, providing a benefit to both the employee and employer alike.

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Topics

Wage And Hour, Wages, FLSA, Unpaid Wages, Fair Labor Standards Act, California Labor Code, Hours Worked, Rounding Policy, Time Clock, Hour Tracking, Off-The-Clock