

HANSON BRIDGETT TIP SHEET

START THE NEW YEAR FRESH WITH A CLASS ACTION/PAGA AUDIT

What a better way to start the New Year than to do an audit of your wage and hour practices to catch any errors before they become big, expensive errors. By now, everyone is familiar with, and hopefully has compliant, meal and rest break policies. They are not addressed here. There are *many other* rules to follow – here are a few areas where we are seeing claims:

- Do you have **split shifts**? Are you paying employees correctly?
- Do any employees work **seven days in a row** in a workweek and, if so, is there evidence of voluntariness for working that seventh day?
- Are you paying the **regular rate of pay** for overtime, meal and rest break premiums and sick pay?
- Are you **including all non-discretionary income** in your regular rate of pay calculation? Bonuses, commissions, shift differential, etc.?
- Do your **wage statements** *accurately* portray all applicable Labor Code Section 226(a) items? For example:
 - Is the **employer's name and address on your wage statement** the correct "legal entity that is the employer"?
 - Are you reflecting **paid sick leave balance** on the wage statement?
- If **NOC shift employees** are taking **on-duty meal breaks**, what are they told and doing for rest breaks? Are any other employees taking on-duty meal periods and, if so, are they doing so correctly?
- Do you still **round employee time**? Is it neutral and do you audit it?
- Do your employees engage in any activities *that plaintiffs claim is* **off-the-clock work**? Such as: responding to work related messages after hours, required to check their schedules or other work activities. Do any employees spend time waiting to boot up computers before clocking in? Frequently wait in line to clock into the time clock?
- Are you providing new hires with a **Labor Code 2810.5 Notice** providing Notice of rates of pay and other matters? And updating them
- Have you updated your workplace posters for 2024?
- Is any **"make-up" time** policy compliant with LC Section 513?
- Are you providing a **final paycheck in-hand** on the last day of employment when terminating an employee?
- Are employees using **personal devices** to communicate about work?
- Do you have a **Workplace Violence Prevention Plan**?
- Are you paying **"final pay"** for your accrued vacation pay at termination?
- **Misclassification** – are employees *PROPERLY* under California law ("51%" engaged in exempt duties).

These are areas that pop up in wage and hour class/PAGA cases. Claims continue to grow and new cases provide expanded employee rights.