

**The Goldman Law Firm Employment Newsletter**  
**(July 2010)**

Introduction

In today's litigious society you are far more likely to be sued by one of your employees than a patient. We at the Goldman Law Firm cannot stress to you enough the importance of taking as many preventive measures as possible when dealing with employment matters. Below are examples of some of the pitfalls employers fall into without even realizing it.

**1. "If You Are Searching For Answers Turn To Your Holy Book"**  
The Importance of Implementing An Office Policy Manual

A solid step in preventative measures is implementing the use of an updated office policy manual. An office policy manual serves as a valuable resource for an employer. The manual describes employee responsibilities and outlines the programs developed by your office to benefit your employees.

We also offer the service of preparing employment agreements that include a binding arbitration clause as well as an at-will employment policy.

For more information on creating or updating an office policy manual contact Jennifer Ellis, Esq. at [jellis@goldmanlawfirm.net](mailto:jellis@goldmanlawfirm.net)

**2. "The Writing On The Wall"**  
Do not Forget about Workplace Posting Requirements

Another important requirement for all California employers are workplace postings and informative pamphlets. In California, all employers must meet workplace posting and informative pamphlet obligations.

Failure to comply with posting requirements can result in fines imposed by the governing agencies, and could constitute a misdemeanor punishable by imprisonment.

Contact Jennifer Ellis, Esq. at [jellis@goldmanlawfirm.net](mailto:jellis@goldmanlawfirm.net) for information as to what postings and pamphlets are required and how to locate them.

**3. "Clearing Up Confusion Regarding What Is Required And What Has Become A Common Courtesy"**  
Continuing Education and Compensation Requirements

Governmental licensing agencies require training or continuing education for licensed employees. Many employers extend the courtesy of paying for the costs associated with such training. "Courtesy" is the correct word in this situation rather than "required." The reason being is that in certain situations the employer is not required to pay for costs associated with training and/or continuing education even though keeping the license or certification may be a condition of maintaining employment.

For more information concerning continuing education and an employer's compensation requirements contact Jennifer Ellis, Esq. at [jellis@goldmanlawfirm.net](mailto:jellis@goldmanlawfirm.net)

**4. “Working 9 to 5 Is No Longer The Only Way To Make A Living”**  
Alternative Workweek Scheduling

Alternative workweek scheduling allows non-exempt employees to work more than eight hours per day without requiring the payment of daily overtime. In order to implement an alternative workweek schedule specific steps must be taken by the employer.

An alternative workweek schedule is possible in many different types of regular work week schedules.

To find out if an alternative workweek schedule would be appropriate for your employees' schedules contact Jennifer Ellis, Esq. at [jellis@goldmanlawfirm.net](mailto:jellis@goldmanlawfirm.net)

**5. “Suckers for Salaries”**  
Exempt vs. Non-Exempt Employees

Just because your office manager has the title “Office Manager” and is paid on a salary DOES NOT mean they are Exempt Employees. I repeat a salaried employee does not automatically mean an exempt employee.

This common misconception leads many employers into future problems in the areas of overtime, meal periods, and rest period violations.

To learn more about what actually constitutes an exempt employee contact Jennifer Ellis, Esq. at [jellis@goldmanlawfirm.net](mailto:jellis@goldmanlawfirm.net)

**6. “Rock Around The Clock”**  
The Importance Of Time Keeping

We cannot stress to you enough how important it is to enforce a strict policy of time keeping for your employees. This means clocking in at the beginning of the day, clocking out for lunch, clocking in after lunch, and clocking out at the end of the day.

Consistent time keeping records provide employers with an invaluable tool when dealing with disputes concerning overtime and meal period violations.

The California Supreme Court ruled in *Murphy v. Kenneth Cole*, that a three-year statute of limitation, not one year, applies to the “one additional hour of pay “ employers are required to pay employees when meal and/or rest breaks are not provided. This means an employer could be responsible for up to three years worth of violations. Accordingly, it is imperative that your employees clock in and out for their meal periods.

For more information concerning the importance of accurate time keeping and meal and rest period violations contact Jennifer Ellis, Esq. at [jellis@goldmanlawfirm.net](mailto:jellis@goldmanlawfirm.net).

**7. “We Break for Employees”**  
Your Employees Must Be Given The Opportunity To Take Rest Periods

In light of the recent California Supreme Court Case, *Murphy vs. Kenneth Cole*, the Court has opened the doors to a possible surge of rest period violation lawsuits. In addition, there is a potential for significant costs associated with rest period violations.

For each workday that an employer fails to authorize and permit an employee to take a required rest break, the employer owes the employee one additional hour of pay at the employee’s regular rate.

Employers must always give their employees the option of taking rest breaks of no less than (10) consecutive minutes for each four hours (or major portion thereof) worked, occurring as near as possible to the middle of the work period for all non-exempt employees.

Contact Jennifer Ellis, Esq. at [jellis@goldmanlawfirm.net](mailto:jellis@goldmanlawfirm.net) for more information concerning rest periods and rest period violations.

**8. “You Gotta Pay to Play”**  
You should pay the appropriate wages regarding overtime, meal period, and rest period violations

In situations where your non-exempt employee works overtime, misses their meal period, or is prevented from taking a rest period. The employer should always pay up then instead of facing later consequences.

For any overtime your non-exempt employee works the employer must pay the employee one and one-half times the employee’s regular rate of pay.

For each workday that an employee misses their meal period or is prevented from taking a rest period the employer must pay the employee one additional hour of pay at the employee’s regular rate.

Contact Jennifer Ellis, Esq. at [jellis@goldmanlawfirm.net](mailto:jellis@goldmanlawfirm.net) for more information regarding overtime, meal period and rest period requirements.

Written by Jennifer M. Ellis, Esq.