

# Employer Liability for Unreported Time

By: David W. Tetzlaff, Esq.

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A recent decision by the Sixth Circuit Court of Appeals held that a nurse's claim for unpaid wages attributed to working during unpaid meal breaks, did not violate the Fair Labor Standards Act ("FLSA"). [\*White v. Baptist Memorial Health Care Corp.\*](#) (11/6/12)

The Court found in favor of the employer for the following reasons:

1. The hospital policy regarding meal breaks was in the employee handbook provided to the nurse during her new employee orientation and stated that an unpaid meal break was automatically deducted from pay checks if working a shift of six hours or more.
2. "The handbook also provided that if an employee's meal break was missed or interrupted because of a work related reason, the employee would be compensated for the time she worked during the meal break."
3. The hospital maintained an exception log for this purpose and employees were instructed to record in the log any time worked during a meal break so they could be paid for such.

Noting that an automatic meal deduction plan is lawful under the FLSA, the Court in [\*White\*](#) held that "if an employer establishes a reasonable process for an employee to report uncompensated work time the employer is not liable for non-payment if the employee fails to follow the established process."

It is also important to note that in this case there was no evidence that the hospital "discouraged employees from reporting time worked during meal breaks or that they were otherwise notified that their employees were failing to report time worked during meal breaks." If the hospital had such knowledge, the result might have been different.

Similar decisions have been reached by the Ninth Circuit, which includes California, and the Eighth Circuit.

In the Ninth Circuit decision, a case that involved overtime rather than missed meal breaks, the Court held that "where an employer has no knowledge that an employee is engaging in overtime work and that employee fails to notify the employer or deliberately prevents the employer from acquiring knowledge of the overtime work, the employer's failure to pay for the overtime hours is not a violation of [the FLSA]." [\*Forrester v. Roth's I.G.A. Foodliner, Inc.\*](#), 646 F.2d 413, 414 (9th Cir. 1981)

Based on these cases, it's important that employers review their process regarding deductions for unpaid meal times or breaks, and ensure they comply with these recent decisions to minimize or prevent possible liability.

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