

## **Employers Must Reimburse Employees for Business Expenses Even When Policy Is Not Followed**

Written on October 16, 2009 by [Shawn McCammon](#)

Plaintiffs, in *Stuart v. RadioShack*, sought reimbursement for expenses related to use of their personal vehicles to perform inter-company store transfers, which vehicle use was known by the employer even though the employees had not followed proper internal procedures for requesting reimbursement. The issue before the court was whether an employee must first make a proper request for reimbursement with his or her employer before the employer's duty to indemnify under Labor Code section 2802 is triggered.

California Labor Code section 2802 provides that "An employer shall indemnify his or her employee for all necessary expenditures or losses incurred by the employee in direct consequence of the discharge of his or her duties." And Section 2804 further provides that "Any contract or agreement, express or implied, made by any employee to waive the benefits of this article or any part thereof, is null and void."

The Court addressed the question of what happens when an employee does not report the expense according to company policy, and held, in effect, that the requirements of the statute must override any internal reimbursement rules set by the employer. California employees have a right to be reimbursed for their work related expenses, such as business travel, equipment, materials, and training, when the employer knows or has reason to know that the employee has incurred the expense, even when the employee fails to follow internal reimbursement protocol established by the employer.

Employers should continue to create policies and procedures for expense reimbursement; however, they should also recognize that they remain liable to reimburse the employee's expenses even when the employee fails to adhere to the exact terms of the reimbursement policy. Case law now provides that the employee's failure to follow company reimbursement protocol will be an unlikely defense for employers who fail to make a valid reimbursement required under Labor Code 2802.