



Law Office of Karen J. Sloat, APC (“LOOKS”)

LOOKS news

Caring For Clients While Pursuing Justice

Karen Cares...

Fall is here! We are all ready to enjoy fall holidays, celebrate plentiful harvests, and give thanks. Many employees are returning to work after a summer break or period of unemployment, so let's support our local businesses generously. We at LOOKS are grateful for our clients and friends in the community. In this season, we wish you Healing, Health, Happiness and Hopefulness about the future. Let us know how we can help you prepare your business for 2022 with more labor law information. It's our pleasure to serve you!

~ Karen J. Sloat



Time Rounding: What's Your Plan?

The subject of time rounding is a complex topic. However, with a little preparation, employers can develop time rounding policies that help eliminate some potential problems.

What Is Rounding?

In the context of labor and employment law, the term *rounding* refers to situations in which employers using timeclocks to record employees' starting and stopping times are permitted to round an employee's worked time up or down to the nearest tenth of an hour. Employers in California are permitted to use rounded timecard punches to calculate regular and overtime wages if the employer's rounding policy is written as a neutral policy and is applied neutrally. The policy should have an overall effect that allows employers to efficiently calculate hours worked without imposing a burden on an employee. An employer's policy should be one where over the course of time, with the rounding up and rounding down, employees will be compensated for the time they worked.

Why Should an Employer Care?

Courts have offered additional guidance for employers on how to institute a neutral policy for timecard rounding on wages and overtime payment calculation. As a result, employers can take steps to protect their businesses. While employers are permitted to create and use rounding policies to determine regular wages and overtime, in some instances, rounding is not permitted.



Recently, for example, the California Supreme Court ruled that rounding is not permitted in the context of meal period breaks. In *Donohue v. AMN Services, LLC*, 11 Cal. 5th 58, 61 (2021), the Court reasoned employers cannot round up or down for meal breaks because providing short or delayed meal periods is as much of a meal break law violation as providing no meal break at all.

How Can I Protect My Business and Comply with the Law?

Because timecard rounding is not permitted for meal breaks, employers should work diligently to provide employees with complete, duty-free 30-minute meal breaks and 10-minute rest breaks. Rounding is still permitted for wage and overtime payment calculations if a solid policy is in place. Employers can institute policies that ensure the employer is in legal compliance by contacting our legal defense team. The LOOKS Workplace Solutions department has strategies to help employers evaluate their current rounding policies and can help them institute a neutral timecard rounding plan to use in wage and overtime calculations.

Happy Halloween



Check out the new LOOKS website
www.KarenSloatLaw.com

To Vax, Or Not to Vax: That is the Question

Due to the recent increase in COVID-19 cases, California officials are recommending that private employers require their employees to be vaccinated against COVID-19



or face regular testing. California does have mandates for teachers and school staff and certain health care workers who must be vaccinated by September 30, 2021.

California employers will need to continue to navigate the patchwork of federal, state and local laws regarding vaccinations. Employers who have already mandated vaccinations in the workplace are having to

evaluate requests for reasonable accommodation which can be tricky, especially for employees who are asking for a reasonable accommodation based upon a sincerely held religious belief. According to federal and California state law, employers need to continue to provide reasonable accommodations for employees with medical issues that prevent them from receiving the vaccination or based upon a sincerely-held religious belief.

The bottom line – before employers mandate the COVID-19 vaccination, they should speak with an employment attorney for advice.

5 WAYS TO AVOID A LAWSUIT THIS HALLOWEEN

1. Clean your property of obstacles.
2. Keep your dog in a safe, locked place.
3. Don't leave open, lit candles outside and keep jack-o-lanterns away from walkways.
4. Be on high alert while driving.
5. Don't drive drunk.



“Labor” Laughs!

A Halloween costume can go wrong in so many ways. Have you ever seen an employee show up in a Halloween costume that silenced their co-workers?

After the last 18 months, who could blame us for taking every opportunity possible to have fun. And, dressing up for Halloween? Wearing a costume into the office can be tricky. It's important to check with your coworkers and manager to see if anyone else will be dressing up, even if there is an office party on the schedule, and make sure that the costume you choose doesn't cross any professional lines. So, before you leave your house, think about what message you want to send!



760-779-1313

Employers Beware... PAGA!

The Private Attorneys General Act (PAGA) allows employees to bring a lawsuit against their employers for certain California Labor Code violations, on behalf of themselves and all other similarly aggrieved employees, by stepping into the shoes of state regulators to recover civil penalties. There are nearly 150 different violations that can trigger claims against an employer, including meal period and rest break violations, wage statement violations, and waiting time penalties.

If an employee hires an attorney to claim that they were not receiving compliant meal periods, i.e., receiving a meal period after the end of the fifth hour of work, that attorney may file a lawsuit on behalf of all other employees who were also not receiving compliant meal periods. Simple enough, right? Well, unfortunately it's not.

To illustrate how PAGA violations can begin to accumulate - let's say an employee receives a non-compliant meal period each day for five workdays worked within one pay period. The initial violations of non-compliant meal periods then create other violations and penalties. Because the meal periods were not compliant, the company presumably would be required to compensate an employee for each violation. If they did not do so by the end of that particular pay period, then the employee's wage statement would not be accurate - creating a wage statement violation under the Labor Code. As if that's not enough, because the employee was not paid timely, the employee may also be entitled to waiting time penalties.

For Example: A fast food company tells its employees they cannot take a lunch break when the restaurant is busy - a violation of California Labor Law. There are 1,000 employees, and the practice has gone on for 30 pay periods. The first violation for each employee carries a \$100 penalty. The next 29 violations for each employee carry a \$200 penalty per violation per employee. The company can be assessed \$5.9 million in penalties. That's for only one violation!

This is different from an employee seeking to recover compensation. In a typical wage and hour lawsuit, an employee's recovery focuses on their unpaid wages and statutory penalties.

The bottom line - PAGA lawsuits can become very complex and can cost an employer millions of dollars for the violations, penalties, court costs and attorney fees.

As the employer, you may be thinking, "What can I do to prevent a PAGA suit from financially devastating my company?" The good news is – employers can be proactive about compliance and protect their business from a PAGA lawsuit. Contact our experienced attorneys for more information.

www.KarenSloatLaw.com

May your treats be many, and your tricks be few.
Hope you have a *sweet* Halloween.
~From Our Firm Family to Yours



Or Current Resident

This is an advertisement.



Remember when Halloween was about ghosts, witches and werewolves?

Halloween parties have always been challenging to employers. Employers are used to following certain rules in the workplace concerning weaponry and other typically prohibited items, and these restrictions extend to Halloween costumes. At the same time, employers are responsible for maintaining a fun, respectful workplace environment for all employees.

Employers can minimize their liability by:

- Prohibiting Halloween parties altogether in the office;
- Allowing workers to wear only animal ears, vampire teeth, witch's hats or equally non-offensive items;
- Reminding workers of no-tolerance policies; and
- Reinforcing previously established dress codes.

When it's all said and done, planning a successful yet appropriate Halloween celebration is all about knowing how to have fun without having it at the expense of others.

Customize Employee 2022 Handbooks



Employee Handbooks are the cornerstone of communication for employers and the first line of defense against potential litigation.