Engage PEO Client Alert:

California: Meal Violation Premium

The California Supreme Court recently held that **meal & rest break violation premium pay must be paid out using the same rate as overtime** (which includes nondiscretionary payments such as quarterly retention bonuses or shift differentials).

Many employers have a longstanding practice of paying a meal & rest break violation at the hourly base rate rather than the "regular" rate as used for paying overtime premiums.

In Ferra v. Loews Hollywood Hotel, LLC, a bartender was paid only a base rate for meal & rest break violation premiums, which did not take into account quarterly incentive bonuses paid on a nondiscretionary basis.

The Court ruled that this practice was improper, and that the "regular" rate for meal & rest break violation premium pay is the same as the "regular" rate for overtime premium pay.

Notably, the Court also held that **employers must correct meal & rest violation payments on a retroactive basis.** This means that if you receive a challenge for meal & rest violation payments that occurred prior to July 2021, you may need to evaluate and issue pay corrections for up to four years in the past.

Please contact your Engage Human Resources Consultant with any questions or concerns.