

Top 10 Lessons for California Employers From 2013

By Nancy Yaffe

The following are the 10 tips from my practice in 2013 that serve as reminders for what employers should do for 2014:

1. Plan ahead for the increase in the California minimum wage to \$9 per hour on July 1, 2014, and remember that this impacts the minimum salary for exempt status, too (it will be \$37,440).
New California Employment Laws for 2014
2. Don't let your managers schedule employees for six-hour shifts with no meal breaks. It is just too risky that they will work more than six hours (even by just a few minutes) and not get a meal break. Instead schedule them for a five or five and a half hour shift and make sure they have waived in writing their right to a meal break for shifts six hours or less.
3. If you don't have an arbitration agreement with a class action waiver, consider one. While the courts are still debating the issue, it still gives you leverage in negotiating to get a matter resolved.
4. Review your vendor agreements and make sure they actually provide the protections you think you have.
Do You Know What Your Vendor Contracts Say?
5. Make sure you have eliminated all automatic gratuities. And if you haven't, make sure you are including them in the regular rate for overtime and paying the appropriate payroll taxes.
Hospitality Industry Reminder: Revisit Automatic Gratuities by Year End
6. Regular rate issues for overtime compensation are still one of the hottest issues in wage-and-hour litigation, and one of the hardest to get right and defend. Take a look at all of your non-discretionary compensation and make sure you are correctly including all of it in your overtime rate. Remember, your payroll company takes direction from you, so if you haven't instructed them correctly, do not assume the rate is right.
Does Your Paystub Accurately List the Regular Rate?
7. Remember that protections for pregnant, post-pregnant and lactating women are ever expanding, so proceed with caution before denying any requested accommodation, and be sure to document the steps taken to engage in the interactive process.
California Broadens the Protections for Pregnancy
8. Don't voluntarily give employee time records, schedules and time punch edit reports when a current or former employee requests personnel and pay records. Instead provide pay stubs and the personnel file, and wait and see if anything else is requested.
Personnel and Pay Records: To Give or Not to Give, That Is the Question
9. Don't contest unemployment just because you had good reason to fire someone.
Does Good Cause for Termination Equal Good Cause to Contest Unemployment?
10. When terminating someone, don't tell them they "aren't the right fit." Unless, of course, you are interested in being sued.
Want To Get Sued? Fire Someone and Say "You Aren't the Right Fit"

Stay on top of these and other current issues affecting California employers by subscribing to the [California Employment Law Blog](#).

If you have any questions about how these issues apply to your company or in any particular situation, please contact:

Nancy Yaffe, ESQ

310.598.4160 | nyaffe@foxrothschild.com