

No work permit? Overtime pay still required

Here's a reminder for employers tempted to look the other way when hiring and managing workers who may lack proper authorization to work or reside in the United States: Undocumented status and the possibility the workers may be subject to deportation does not absolve you of your obligation to pay the minimum wage and overtime under California's wage-and-hour laws. You must also grant mandated meal and rest breaks.

If you don't, you're subject to penalties. That's the reminder the Court of Appeal of California recently issued.

Recent case: Juan and two other workers at a California furniture factory that made tables and chairs for restaurants and casinos sued the company when they discovered they were not being paid overtime or being provided with breaks.

They claimed they regularly worked 10 hours per day without a second rest or meal break, in violation of California wage-and-hour laws and regulations.

The employer said it didn't have to pay because the three workers were in the country illegally and therefore weren't eligible to work at all.

But the court shot down that argument since it was clear the employer knew about their status and ignored it. To let the employer evade wage-and-hour rules would merely provide an incentive to take advantage of undocumented workers.

The court awarded the workers \$150,000 in unpaid wages and penalties. (*Lepe, et al., v. Luft Enterprises, et al.*, Court of Appeal of California, 2018)

Note: The Trump administration is cracking down on employers that knowingly employ undocumented workers, with an increase in both employer audits and workplace raids. See ["Employers beware! ICE doubles worksite enforcement investigations"](#) for more on these federal initiatives.

Advice: If you have reason to question your workers' employment eligibility verification documentation, consult your attorney before federal immigration authorities comes knocking.