

## Employers Must Consult Both State And Federal Law To Ensure Their Meal And Rest Period Practices Are Legally Compliant

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A series of recent federal and state court decisions provide a mixed bag for employers on the issue of mandatory meal periods. On the one hand, these decisions support an employer's ability to provide meal periods to its employees without pay. On the other hand, the series of cases show that unpaid meal periods continue to be ripe for wage and hour litigation. Federal law does not mandate meal or rest periods, but many state laws do, usually without pay. However, the United States Department of Labor has opined that a meal or rest period, when provided, must be at least 30 minutes or longer to be unpaid and the employee has to be completely relieved of his or her duties during such meal or rest periods. Therefore, even though state law does not require meal or rest periods to be paid, such periods of less than 30 minutes must be paid under the Fair Labor Standards Act (FLSA). There has been a recent uptick in litigation claiming meal periods should have been paid based on a variety of reasons (e.g., it was less than 30 minutes, the employee was not completely relieved of his or her duties, etc.). Employers with automatic deduction practices for meal or rest periods are particularly vulnerable if the employer does not have an adequate system for employees to report a meal period that was not taken or interrupted. For example, in *Jones-Turner v. Yellow Enterprises LLC*, the United States Court of Appeals for the Sixth Circuit held that Emergency Medical Technicians (EMTs) were not entitled to a paid meal period, even though they were geographically limited in where they could eat, had to be in radio contact with dispatch and the EMTs failed to log when they missed

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a break. The Appellate Court held that the EMTs had enough freedom during the meal period and the employer had a reasonable process for them to report a missed meal, but the employees did not consistently follow company procedure. In *Ruffin v. MotorCity Casino*, the same federal appellate court held that security guards were not entitled to a paid meal period even though they had to monitor their radios, because monitoring the radios did not constitute substantial work. Finally, in *Augustus v. ABM Security, Inc.*, a California appellate court held that California law did not require security guards who were on-call during their meal to be paid (provided that they are not called to work) because the on-call restriction was not onerous. Employers can reduce the risk of violating the law in the area of meal or rest periods by having a clearly written policy regarding such periods, a reasonable process by which employees can report a missed or interrupted meal break, training supervisors and managers to properly enforce the policies, and conducting routine audits to ensure compliance with the policies by employees and management.