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1991.02.25-Z

February 25, 1991

David M. Lester, Esq.
Musick, Peeler & Garrett
One Wilshire Blvd.
Los Angeles, CA 90017

Re: Automobile Insurance Requirement

Dear Mr. Lester:

I am in receipt of a letter dated February 13, 1991, regarding a telephone conversation you state I had with you during the week of February 4-9. I must confess, I may be wrong, but I remember having a conversation with a female attorney from your firm on this subject. As I say, I may simply be getting old.

It is with this in mind that I state that there appears to have been a slight misunderstanding regarding the conversation. I hope that this, too, is not attributable to my advancing years.

In the conversation I remember (with a female member of your firm), the question was asked whether an employer paying 26 cents a mile for the use of the employee's automobile (which, I remember commenting, is the amount suggested by the I.R.S.) would still have to pay for the employee's insurance premium. I said that the employer would be considered to have included the cost of such insurance in the amount paid per mile under these circumstances. Since the amount of 26 cents per mile is considered reasonable by the I.R.S., I am quite certain that it is the result of a study on the subject and would be found to be reasonable by DLSE.

I am sure that I did not address the question as you put it: "if the employer already has a policy of reimbursing employees 26 cents a mile for travel time in the employee's own car, can the insurance obligation discussed above be deducted from this amount?" As a matter of fact, I'm not even sure what that question means.

I believe that this whole issue came about a few years ago when the question was asked whether an employer could require that the employee using his own automobile on company business carry insurance which names the employer as the beneficiary. The answer was no. Such a requirement would be a violation of Labor Code §450; the employer would be required to purchase such insurance. But that has nothing to do with whether an employer who requires that an employee use his own automobile must pay an employee extra for the insurance the employee normally carries if the amount the employer is already paying for the use of the automobile is "reasonable". (See Interpretive Bulletin 84-7)

David M. Lester, Esq.
November 1, 1991
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I hope this adequately responds to your request for information. If not, please feel free to call on me at (415) 557-2516 and I will discuss the matter with you.

Yours truly,

H. THOMAS CADELL, JR.
Chief Counsel