

DEPARTMENT OF INDUSTRIAL RELATIONS
DIVISION OF LABOR STANDARDS ENFORCEMENTSanta Rosa Legal Section
50 D Street, Suite 360
Santa Rosa, CA 95404
(707) 576-6788H. THOMAS CADELL, *Of Counsel*

June 13, 2002

Terryl B. O'Donnell, Esq.
7040 Avenida Encinas, 104-224
Carlsbad, CA 92009Re: **Tardiness**

Dear Ms. O'Donnell:

Anne Stevason, Acting Chief Counsel of the Division, has asked me to respond on behalf of the Division of Labor Standards Enforcement to your letter of March 22, 2002.

In your letter you indicate that your client, a manufacturing plant, has encountered some problems with employee tardiness. You suggest that one plan considered by your client was to refuse to allow the employees who arrive late to clock in until the next hour. In that way, you conclude, the tardy employees would get paid for less than eight hours on that day. Aside from the fact that such a plan would require the employee to return at the request of the employer and, consequently, require the payment of reporting time premium (see IWC Order 1-2001, Section 5), it would also deprive your client of needed personnel for the hour.

Actually, the California Labor Code has historically permitted an employer to deduct a full half-hour of wages from the amount due an employee who is less than one-half hour late. Labor Code § 2928:

"No deduction from the wages of an employee on account of his coming late to work shall be made in excess of the proportionate wage which would have been earned during the time actually lost, but for a loss of time less than thirty minutes, a half hour's wage may be deducted."

We hope this will help your client solve the problem.

Yours truly,

A handwritten signature in cursive that reads "H. Thomas Cadell, Jr.".

H. THOMAS CADELL, JR.
Attorney for the Labor Commissionerc.c. Arthur Lujan, State Labor Commissioner
Tom Grogan, Chief Deputy Labor Commissioner
Anne Stevason, Acting Chief Counsel
Assistant Labor Commissioners
Regional Managers

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