

DEPARTMENT OF INDUSTRIAL RELATIONS
DIVISION OF LABOR STANDARDS ENFORCEMENTSection
1500 Market Street, Suite 4400
San Francisco, CA 94102

June 3, 1991

Paul D. Quinn, President
Commercial Food Equipment Service
524 West Central Park Ave.
Anaheim, CA 92802

Re: Meal Periods

Dear Mr. Quinn:

This is in response to your letter of May 24th wherein you seek advice regarding your company's obligation to provide meal periods for workers.

In your letter you state that your company employs service technicians who work in the field, free from direct supervision and control. These workers are advised that they are entitled to a thirty-minute lunch period each day and they are not paid for this meal period. You ask for a legal opinion regarding the meal period you describe.

The California Industrial Welfare Commission Orders require that employees receive at least a 30-minute meal period after five hours. So long as the employer authorizes the lunch period within the prescribed period and the employee has a reasonable opportunity to take the full thirty-minute period free of any duty, the employer has satisfied his or her obligation. The worker must be free to attend to any personal business he or she may choose during the unpaid meal period. In addition, of course, if the employee does work during the meal period and reports such hours, the employer must pay for the time at the applicable rate of pay.

As you know, hours worked include all hours the employee is "suffered or permitted to work, whether or not required to do so." In this regard, in the event the employee does not report such hours (having been given a reasonable opportunity to do so) and the employer does not know or has no reason to know that the employee worked during the meal period, the employer is not obligated to pay for the time worked; however, if the employer knew or reasonably should have known that the worker was working through the authorized meal period, the employer would be obligated to pay for the hours worked at the applicable rate of pay.

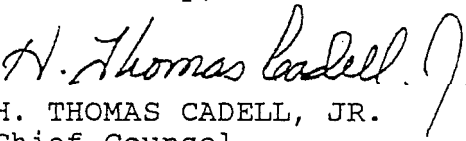
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I would strongly suggest that you memorialize your company policy regarding meal periods. A written statement which clearly sets out the working conditions is a valuable tool which goes a long way toward resolving disputes before they arise.

I hope this adequately addresses the question you raised in your letter of May 24th.

Yours truly,


H. THOMAS CADELL, JR.
Chief Counsel

c.c. James Curry, Acting Labor Commissioner
Simon Reyes, Assistant Labor Commissioner
John Carter, Sr. Deputy, Santa Ana
Ed Voveris, Regional Mgr.