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### California Supreme Court Rules the Remedy Afforded for Meal and Rest Period Violations Constitutes “Wages” or “Premium Pay” in *Murphy v. Kenneth Cole Productions, Inc.*

Pursuant to California Labor Code section 226.7, employers who fail to provide meal and rest breaks in compliance with an applicable order of the Industrial Welfare Commission must pay the employee **one additional hour of pay at the employee’s regular rate of compensation for each day that the meal or rest period is not provided.** Prior to the California Supreme Court’s decision in *Murphy v. Kenneth Cole Productions, Inc.*, there was a split of authority as to whether payments due under Section 226.7 constituted “wages” or “penalties.” Claims for penalties are governed by a one-year statute of limitations, whereas a three-year statute of limitations applies to claims for unpaid wages.

On April 16, 2007, the Supreme Court issued its decision in *Murphy*, which held that the remedy afforded for meal and rest period violations constitutes **“wages” or “premium pay.”** As a consequence, claims for failure to provide meal and rest breaks are now subject to a **three-year statute of limitations** when brought alone. If such claims are brought in conjunction with a claim for Unfair Business Practices under California Business & Professions Code section 17200, they are subject to a **four-year statute of limitations.**

The Court in *Murphy* rejected all prior decisions holding that Section 226.7 payments are “wages.” As such, unless and until the California Legislature takes action which affects this ruling, the payment of “one additional hour of pay” for missed meal and rest breaks is considered a “wage,” and employees have up to four years in which to bring their claims.

As a result of the *Murphy* decision, it is more important than ever for employers to ensure that their employees are receiving meal and rest periods in accordance with applicable law. If you have any questions regarding the Labor Code or Wage Orders, please contact any member of Loeb & Loeb LLP’s Employment and Labor Group. Do not delay in implementing policies to comply with relevant law, as your exposure to liability for failing to provide meal and rest breaks now reaches back up to four years.

For more information on the content of this alert, please contact Michael P. Zweig, *Co-Chair*, Employment and Labor Group at 212.407.4960 or at [mzweig@loeb.com](mailto:mzweig@loeb.com), or Michelle La Mar, *Co-Chair*, Employment and Labor Group at 310.282.2133 or at [mlamar@loeb.com](mailto:mlamar@loeb.com).

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