



One Minute Memo[®]

Court Issues Favorable Wage Statement and Reporting Time Decision

On February 17, 2011, in *Price v. Starbucks Corporation*, the California Court of Appeal published an opinion holding that an alleged deprivation of information on a wage statement “standing alone is not a cognizable injury” under Labor Code section 226. The court also held that an employee who reports to work at the request of the employer, but is neither scheduled to work nor reports with an expectation of working a typical shift, is entitled to no more than the two-hour minimum “reporting time pay.”

The Underlying Facts

Plaintiff Drake Price was an entry-level barista at Starbucks. A typical shift for him ranged between four and eight hours. On November 11, 2007 Price called the store and informed a coworker that he was unable to work that day. Later that day, Price was informed that he was not scheduled to work for the rest of the week and that he should call the branch manager. The next day, the branch manager left Price a voicemail asking him to “come to the store on November 16, 2007, to have a talk.”

Price reported to work on November 16 as requested, and was informed by his manager during a short meeting that his employment was terminated. He received a paycheck for the hours he worked through November 10, and an additional 2 hours for reporting to the meeting on November 16.

Price’s Claims

On behalf of himself and a putative class, Price sought to recover unpaid wages and penalties, alleging Labor Code violations, including failure to timely pay wages upon termination, failure to pay all reporting time pay resulting from the November 16 meeting, and failure to issue a wage statement that complied with Labor Code section 226.

The trial court sustained Starbucks’s demurrer to Price’s wage statement claim, and granted summary judgment in favor of Starbucks on the remaining causes of action. The Court of Appeal affirmed.

Court of Appeal Decision

Wage Statements

Price alleged that Starbucks violated Labor Code section 226 by failing to include on his pay statements the total hours worked, the net wages earned, and all applicable hourly rates of pay. He claimed that this lack of information “caused confusion and possible underpayment of wages due,” which resulted in a “mathematical injury” requiring the class to reconstruct their time and pay records to ensure that their overtime rate of pay was correct.

The Court of Appeal held that the deprivation of this information, standing alone, was not a cognizable injury, as it did not result in the type of injury that required “computations to analyze whether the wages paid in fact compensated him for all hours worked.” The court distinguished Price’s case from those cases where the plaintiffs had sufficiently alleged an injury that required them to engage in discovery and mathematical computations to reconstruct time records to determine if they were correctly paid. Since Price failed to allege a cognizable injury, the trial court properly sustained the demurrer to this cause of action.

Reporting Time Pay

The Court of Appeal also held that Starbucks complied with the reporting time pay requirements of Wage Order 5-2001(A), which requires: “[e]ach workday an employee is required to report for work and does report, but is not put to work or is furnished less than half said employee’s usual or scheduled day’s work, the employee shall be paid for half the usual or scheduled day’s work, but in no event for less than two (2) hours nor more than four (4) hours, at the employee’s regular rate of pay”

The court interpreted the Wage Order to require the following: (1) employees who are required and expected to work, report to work, but are not put to work or do not work at least half of their shifts are entitled to be paid a half-shift reporting wage not to exceed 4 hours; or (2) employees who must report to work but are not scheduled to work and do not expect to work their usual shift are entitled to the minimum payment of two hours, not one-half of their regular shift. Here, because Price reported to work on November 16 when he was not scheduled to work, and because he did not expect to work his usual shift, he fell within the second category of employees. Thus, Starbucks properly paid him two hours of reporting time pay, not one-half his usual shift.

What *Price* Means for Employers

Employees required to report to work on a day on which they are not scheduled to work, even if they are simply called in to be terminated, must be paid at least two hours of reporting time pay, or one-half of their regular shift up to four hours, if they are scheduled or expected to work that day. It should be noted that the California Division of Labor Standards Enforcement (DLSE) states in its Policies and Interpretations Manual that an employer would be required to pay one-half of an employee’s usual shift under the circumstances presented in *Price*, whether or not the employee was scheduled or expected to work. It is unclear if the DLSE will change its position based on the Court of Appeal’s decision in this case.

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