



Break Laws in California: Meal Breaks & Rest Periods Made Easy

Many employees have a right to receive meal breaks and rest periods during their shift. This article explains the basics about California's break laws.

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INTRODUCTION

California employees who are considered non-exempt¹ have a legal right to receive meal breaks and rest periods.² And even most employees who are considered exempt still have a right to take meal breaks (but not rest periods).³

The number of breaks depends on the length of the employee's shift. A rough guide can be found on the following chart:⁴

Meal & Rest Break Chart		
Shift Length	Paid 10-Minute Rest Breaks	Unpaid 30-Minute Meal Breaks
Less than 3.5 Hours	0	0
3.6 – 5 Hours	1	0
5.1 – 6 Hours	1	1 [†]
6.1 – 10 Hours	2	1
10.1 – 14 Hours	3	2 [‡]
14+ Hours	At Least 4	2

[†] Can be waived by mutual consent.

[‡] Only one of these meal breaks can be waived by mutual consent, and even then only if the employee works less than 12 hours.

¹ If you are unsure whether an employee is exempt or non-exempt, visit our previous article, [Exempt vs. Non-Exempt Employees: Guide to California Law](#).

² See Labor Code, § 512, subd. (a); Cal. Code of Regs., tit. 8, §§ 11010–11170 [wage orders of the California Industrial Welfare Commission].

³ Labor Code, §§ 512, subd. (a), 516, subd. (a).

⁴ Labor Code, § 512, subd. (a).

When an employer fails to provide one of these rest periods or meal breaks, the employee is entitled to *one extra hour of pay* at the employee's regular hourly rate.⁵

If the employer fails to provide multiple rest breaks or meal periods, the employee can earn up to one extra hour *per workday* for their missed rest periods⁶ and an additional one hour *per workday* for their missed meal breaks.⁷

Thus, a twelve-hour shift with no rest or meal breaks will entitle the employee to two extra hours of pay at the employee's regular hourly rate.⁸

There are important caveats to these rules, which this article explains in greater detail below.

CH. 1. REST BREAK RIGHTS IN CALIFORNIA

Employers of non-exempt employees have a legal duty to permit their employees to enjoy a rest period when they work shifts that exceed a certain number of hours.⁹

A rest period is an uninterrupted 10-minute period during which employees are not required to work. Employees are entitled to be paid during their rest periods.¹⁰

⁵ See, e.g., Cal. Code of Regs., tit. 8, §§ 11010–11150, subds. 11(B).

⁶ Labor Code, § 226.7, subd. (c); Cal. Code of Regs., tit. 8, §§ 11010–11150, subds. 12(B).

⁷ Labor Code, § 226.7, subd. (c); Cal. Code of Regs., tit. 8, §§ 11010–11150, subd. 11(B).

⁸ *United Parcel Service, Inc. v. Superior Court* (2011) 196 Cal.App.4th 57, 69

⁹ Cal. Code of Regs., tit. 8, §§ 11010–11150, subd. 12(A) [“Every employer shall authorize and permit all employees to take rest periods . . .”].

¹⁰ Cal. Code of Regs., tit. 8, §§ 11010–11150, subd. 12(A) [“Authorized rest period time shall be counted, as hours worked, for which there shall be no deduction from wages.”].

Employers are required to provide suitable resting facilities in an area separate from the toilet rooms during work hours.¹¹

1.1. HOW MANY REST PERIODS MUST BE TAKEN

The number of rest periods an employee must take will depend on the length of their shift.¹²

In general, employees have a right to ten minutes of rest time for every four hour period they work. Employees are not, however, entitled to a break period if they work fewer than three-and-a-half hours.¹³

If an employee works a “major fraction” of a four-hour period, they are entitled to a ten-minute rest period for the entire four-hour period.¹⁴ A major fraction of a four-hour period, for these purposes, is more than two hours.¹⁵

Example

John Smith, a restaurant employee, works a six-and-a-half hour shift. John entitled to two ten-minute rest periods—

¹¹ Cal. Code of Regs., tit. 8, §§ 11010–11150, subd. 13(b) [“Suitable resting facilities shall be provided in an area separate from the toilet rooms and shall be available to employees during work hours.”].

¹² Cal. Code of Regs., tit. 8, §§ 11010–11150, subd. 12(A) [“The authorized rest period time shall be based on the total hours worked daily at the rate of ten (10) minutes net rest time per four (4) hours or major fraction thereof.”].

¹³ Cal. Code of Regs., tit. 8, §§ 11010–11150, subd. 12(A).

¹⁴ Cal. Code of Regs., tit. 8, §§ 11010–11150, subd. 12(A).

¹⁵ *Brinker Restaurant Corp. v. Superior Court* (2012) 53 Cal.4th 1004, 1029 [“The Division of Labor Standards Enforcement (DLSE) has so interpreted the phrase as well, construing ‘major fraction thereof’ as applied to a four-hour period to mean any amount of time in excess of two hours—i.e., any fraction greater than half.”], citing DEPT. OF INDUSTRIAL RELATIONS, *DLSE Opn. Letter No. 1999.02.16* (Feb. 16, 1999).

one for the first four hours, and a second for the last two-and-a-half hours he works.

This is because two-and-a-half hours is a “major fraction” of four hours (i.e., more than half of four hours).

Putting these rules together, a non-exempt employee is entitled to rest breaks as follows:

-  **Less Than 3.5 Hours.** An employee who works less than three-and-a-half hours is not entitled to a meal break.¹⁶
-  **3.5 Hours or More.** An employee who works three-and-a-half hours or more is entitled to one ten-minute rest period.¹⁷
-  **More than 6 Hours.** An employee who works more than six hours is entitled to two ten-minute rest periods, for a total of 20 minutes of resting time during their shift.¹⁸
-  **More than 10 Hours.** An employee who works more than ten hours is entitled to three ten-minute rest periods, for a total of 30 minutes of resting time during their shift.¹⁹

And so on... An employee is entitled to another ten-minute rest period every time they pass another four-hour milestone.²⁰

¹⁶ Cal. Code of Regs., tit. 8, §§ 11010–11150, subd. 12(A) [“[A] rest period need not be authorized for employees whose total daily work time is less than three and one-half (3 1/2) hours”].

¹⁷ Cal. Code of Regs., tit. 8, §§ 11010–11150, subd. 12(A); *Brinker Restaurant Corp. v. Superior Court* (2012) 53 Cal.4th 1004, 1029 [“Employees are entitled to 10 minutes’ rest for shifts from three and one-half to six hours in length, 20 minutes for shifts of more than six hours up to 10 hours, 30 minutes for shifts of more than 10 hours up to 14 hours, and so on.”].

¹⁸ Cal. Code of Regs., tit. 8, §§ 11010–11150, subd. 12(A); *Brinker Restaurant Corp. v. Superior Court* (2012) 53 Cal.4th 1004, 1029.

¹⁹ Cal. Code of Regs., tit. 8, §§ 11010–11150, subd. 12(A); *Brinker Restaurant Corp. v. Superior Court* (2012) 53 Cal.4th 1004, 1029.

²⁰ Cal. Code of Regs., tit. 8, §§ 11010–11150, subd. 12(A); *Brinker Restaurant Corp. v.*

1.2. WHEN SHOULD REST PERIODS BE TAKEN

California’s regulations require rest breaks to fall in the middle of work periods “insofar as practicable.”²¹ This wording isn’t very precise, so there is some flexibility about when rest breaks may be provided.

In general, employers are required to make a good faith effort to permit rest breaks to be taken in the middle of each work period. But if there are practical considerations that render that impractical, the employer can give the rest periods at other times during the shift.²²

1.3. WAIVER OF REST PERIODS

An employer is required to authorize and permit the amount of rest period time to which an employee is entitled.²³ If it does not, it has violated the law and is liable for a penalty (which is described in a section below).

California law permits employees to skip rest periods if they so choose, and there is no penalty to the employer if they do so.²⁴ But employers may not pressure or encourage their employees to skip rest periods.²⁵

Superior Court (2012) 53 Cal.4th 1004, 1029.

- ²¹ Cal. Code of Regs., tit. 8, §§ 11010–11150, subd. 12(A).
- ²² *Brinker Restaurant Corp. v. Superior Court* (2012) 53 Cal.4th 1004, 1029 [“The only constraint on timing is that rest breaks must fall in the middle of work periods “insofar as practicable.” Employers are thus subject to a duty to make a good faith effort to authorize and permit rest breaks in the middle of each work period, but may deviate from that preferred course where practical considerations render it infeasible.”].
- ²³ *Brinker Restaurant Corp. v. Superior Court* (2012) 53 Cal.4th 1004, 1033 [“An employer is required to authorize and permit the amount of rest break time called for under the wage order for its industry.”].
- ²⁴ *Brinker Restaurant Corp. v. Superior Court* (2012) 53 Cal.4th 1004, 1040, fn. 19 [“If work does continue, the employer will not be liable for premium pay.”].
- ²⁵ *Brinker Restaurant Corp. v. Superior Court* (2012) 53 Cal.4th 1004, 1040 [“The wage orders and governing statute do not countenance an employer’s exerting coercion against the taking of, creating incentives to forgo, or otherwise encouraging the skipping of

1.4. ON-DUTY & ON-CALL REST PERIODS

California employers may not require their employees to remain on-site or on-call during rest periods.²⁶ In a recent decision by the California Supreme Court, it was explained:

“ During required rest periods, employers must relieve their employees of all duties and relinquish any control over how employees spend their break time.²⁷

Thus, employees must be free to do as they please during their uninterrupted rest periods. Otherwise, the employer will be required to pay the employee penalties described below.

CH. 2. MEAL BREAK RIGHTS IN CALIFORNIA

Employers of non-exempt employees have a legal duty to permit their employees to take meal breaks²⁸ when they work shifts that exceed a certain number of hours.²⁹

A *meal break* is an uninterrupted 30-minute period during which employees are free to attend to their personal business.³⁰ Meal breaks are usually unpaid, unless the employer fails to relieve the employee of all duties.³¹

legally protected breaks.”].

²⁶ *Augustus v. ABM Security Services, Inc.* (2016) 2 Cal.5th 257, 260.

²⁷ *Augustus v. ABM Security Services, Inc.* (2016) 2 Cal.5th 257, 260.

²⁸ Meal breaks are sometimes referred to as *lunch breaks*.

²⁹ Labor Code, § 512.

³⁰ *Brinker Restaurant Corp. v. Superior Court* (2012) 53 Cal.4th 1004, 1040.

³¹ *Bono Enterprises, Inc. v. Bradshaw* (1995) 32 Cal.App.4th 968, 971 [“An employee is

Despite its name, a meal break does not have to be used for eating, and employers don't need to provide their employees with food during this time. Employees on a meal break may leave the premises, run personal errands, or remain on site—the choice belongs to them.³²

2.1. HOW MANY MEAL BREAKS MUST BE TAKEN

As with rest periods, the number of meal breaks an employee must take will depend on the length of their shift, as follows:

-  **5 Hours or Less.** An employee who works five hours or less is *not* entitled to a meal break.³³
-  **More than 5 Hours.** An employee who works more than five hours is entitled to one 30-minute meal break.³⁴
-  **More than 10 Hours.** An employee who works more than ten hours is entitled to a second 30-minute meal break.³⁵

entitled to compensation for meal periods as 'hours worked' unless the employee is relieved of all duty during the meal period.”] disapproved on other grounds by *Tidewater Marine Western, Inc. v. Bradshaw* (1996) 14 Cal.4th 557; see also *Brinker Restaurant Corp. v. Superior Court* (2012) 53 Cal.4th 1004, 1036 [citing *Bono Enterprises, Inc.* with approval].

³² DEPT. OF INDUSTRIAL RELATIONS, *DLSE Opn. Letter No. 1991.06.03* (June 3, 1991); *Brinker Restaurant Corp. v. Superior Court* (2012) 53 Cal.4th 1004, 1036 [“[T]he wage order’s meal period requirement is satisfied if the employee (1) has at least 30 minutes uninterrupted, (2) is free to leave the premises, and (3) is relieved of all duty for the entire period.”].

³³ Labor Code, § 512.

³⁴ Labor Code, § 512, subd. (a); Cal. Code of Regs., tit. 8, §§ 11010–11150, subds. 11(A); *Murphy v. Kenneth Cole Productions, Inc.* (2007) 40 Cal.4th 1094, 1104.

³⁵ Labor Code, § 512, subd. (a) [“An employer may not employ an employee for a work period of more than 10 hours per day without providing the employee with a second meal period of not less than 30 minutes, except that if the total hours worked is no more than 12 hours, the second meal period may be waived by mutual consent of the employer and the employee only if the first meal period was not waived.”]; Cal. Code of Regs., tit. 8, §§ 11010–11150, subds. 11(B).

In computing the right to a meal break, the relevant question is how many hours the employee actually works—not how many they were scheduled for.

Example

An employee is scheduled for eight hours, but they end up only working a four-hour shift. The employer has no legal obligation to provide that employee with a meal break.

2.2. WHEN MEAL BREAKS MUST BE TAKEN

An employee's first meal break must start before the end of the employee's fifth hour of work.³⁶

If an employee is entitled to a second meal period, it must start before the end of the employee's tenth hour of work.³⁷

2.3. THE EMPLOYER'S DUTY

In providing a legally-required meal break, an employer must:

- 🕒 Relieve their employee of all duty,
- 🕒 Relinquish control of the employee's activities, and
- 🕒 Permit their employee a reasonable opportunity to take the entire 30-minute break uninterrupted.³⁸

³⁶ *Brinker Restaurant Corp. v. Superior Court* (2012) 53 Cal.4th 1004, 1042 [“[F]irst meal periods must start after no more than five hours”].

³⁷ *Brinker Restaurant Corp. v. Superior Court* (2012) 53 Cal.4th 1004, 1041 [“We conclude that, absent waiver, section 512 requires a first meal period no later than the end of an employee's fifth hour of work, and a second meal period no later than the end of an employee's 10th hour of work.”].

³⁸ *Brinker Restaurant Corp. v. Superior Court* (2012) 53 Cal.4th 1004, 1040 [“The employer satisfies this obligation if it relieves its employees of all duty, relinquishes control over their activities and permits them a reasonable opportunity to take an uninterrupted 30-minute break, and does not impede or discourage them from doing so.”].

The employer has no obligation to police meal breaks or ensure that the employee performs no work during the meal break. But they may not impede or discourage their employees from taking one.³⁹

2.4. WAIVER OF MEAL BREAKS

If the employee works six hours or less, the meal period can be waived by mutual consent of the employer and the employee.⁴⁰ If the employee works more than six hours, the meal period may not be waived.

If the employee works twelve hours or less, their second meal period can be waived by mutual consent of the employer and the employee—but only if they didn't waive their first meal period.⁴¹

There is no requirement that these waivers be in writing; a verbal waiver is enough. But it is still usually a good idea for employers to obtain a written waiver to protect themselves.

2.5. ON-DUTY MEAL BREAKS

Under limited situations, employers are not required to relieve the employee of all of their work duties during a meal break. These are called *on-duty* meal breaks.⁴²

Employees must be paid for an on-duty meal break, but they are *not* entitled to the penalty they would otherwise receive for a missed meal break.⁴³

On-duty meal breaks are only allowed when:

- The nature of the work prevents an employee from being relieved of all duty,⁴⁴ and

³⁹ *Brinker Restaurant Corp. v. Superior Court* (2012) 53 Cal.4th 1004, 1040.

⁴⁰ Labor Code, § 512, subd. (a); Cal. Code of Regs., tit. 8, §§ 11010–11150, subds. 11(A).

⁴¹ Labor Code, § 512.

⁴² Cal. Code of Regs., tit. 8, §§ 11010–11150, subds. 11(A).

⁴³ Cal. Code of Regs., tit. 8, §§ 11010–11150, subds. 11(A).

⁴⁴ See DEPT. OF INDUSTRIAL RELATIONS, *DLSE Opn. Letter No. 2009.06.09* (June 9,

- ☑ The employee and employer agree *in writing* to an on-the-job, paid meal period.⁴⁵

The written agreement must state that the employee can revoke it at any time.⁴⁶

2.6. ON-SITE MEALS

If an employee is required to take their meal break at the employer's worksite, the employer must provide them with a suitable place to eat.⁴⁷

Likewise, if a meal period occurs on a shift beginning or ending between 10:00 p.m. and 6:00 a.m., the employer must provide facilities for securing hot food and drink or for heating food or drink. The employer must also provide a suitable sheltered place where food or drinks can be consumed.⁴⁸

CH. 3. PENALTIES FOR MISSED MEAL & REST BREAKS

When an employer fails to provide an employee with a meal break or rest period that they are lawfully entitled to, the employer must pay the employee one extra hour of pay at the employee's regular hourly rate.⁴⁹

If the employer fails to provide multiple rest breaks or meal periods, the employee can earn up to one extra hour *per workday* for their missed

2009).

⁴⁵ Cal. Code of Regs., tit. 8, §§ 11010–11150, subds. 11(A).

⁴⁶ Cal. Code of Regs., tit. 8, §§ 11010–11150, subds. 11(A).

⁴⁷ Cal. Code of Regs., tit. 8, §§ 11010–11150, subds. 11(C).

⁴⁸ Cal. Code of Regs., tit. 8, §§ 11010–11150, subds. 3(H).

⁴⁹ See, e.g., Cal. Code of Regs., tit. 8, §§ 11010–11150, subds. (11)(B).

rest periods and an additional one hour *per workday* for their missed meal breaks.⁵⁰

Example

An employee is working a seven-hour shift. Unfortunately, their employer fails to provide them with any meal breaks or rest periods. Even though they missed two rest breaks and one meal period, they are only entitled to two extra hours of pay.⁵¹

When an employee is legally entitled to a meal break or rest period, the employer essentially has a choice. It can:

- ⚙️ Provide the meal break or rest period as required by law;
- ⚙️ Agree to waive the break, if that is legally allowed and the employee is willing;⁵² or
- ⚙️ Pay the one-hour penalty for the missed break.⁵³

If a meal break or rest period is made available to an employee, but the employee chooses not to take them, the employee is not entitled to recover a penalty for missing them—even if the employer knew the employee skipped the break.⁵⁴

⁵⁰ Labor Code, § 226.7, subd. (c); Cal. Code of Regs., tit. 8, §§ 11010–11150, subds. (11) (B), (12)(B).

⁵¹ Labor Code, § 226.7, subd. (c); Cal. Code of Regs., tit. 8, §§ 11010–11150, subds. (11) (B), (12)(B); *United Parcel Service, Inc. v. Superior Court* (2011) 196 Cal.App.4th 57, 69.

⁵² Or, if an on-duty meal break is legally-permitted, obtain a written agreement to an on-duty meal. (See Cal. Code of Regs., tit. 8, §§ 11010–11150, subds. 11(A).)

⁵³ Labor Code, § 226.7, subd. (b); *Brinker Restaurant Corp. v. Superior Court* (2012) 53 Cal.4th 1004, 1039.

⁵⁴ *Brinker Restaurant Corp. v. Superior Court* (2012) 53 Cal.4th 1004, 1040 [“Proof an employer had knowledge of employees working through meal periods will not alone subject the employer to liability for premium pay . . .”].

The employer may not, however, encourage or pressure their employees to skip breaks (if they do, the penalty would probably be available to the employee).⁵⁵

Example

An employee is working a seven-hour shift. Their employer invites them to take a 30-minute meal period in the middle of the shift, and the employee decides to skip it.

The employee may not recover a one-hour penalty for this missed meal period.⁵⁶

Importantly, even if the employee chooses to skip a meal break and is not entitled to an extra hour of pay, they still must be paid for the work they performed.

CH. 4. LACTATION BREAKS FOR NEW MOTHERS

California employers are required to provide break time to accommodate female employees who want to express breast milk for their infant child. If possible, this break period should coincide with the employee's other break periods.⁵⁷

If the lactation break does not coincide with other break periods provided to the employee, the employer is not required to pay the employee during the break.⁵⁸

Employers must try to provide lactating employees with the use of a private room or location for the employee to express milk in private. The

⁵⁵ *Brinker Restaurant Corp. v. Superior Court* (2012) 53 Cal.4th 1004, 1040 [“an employer may not undermine a formal policy of providing meal breaks by pressuring employees to perform their duties in ways that omit breaks.”].

⁵⁶ *Brinker Restaurant Corp. v. Superior Court* (2012) 53 Cal.4th 1004, 1040.

⁵⁷ Labor Code, § 1030.

⁵⁸ Labor Code, § 1030.

area provided should be close to the employee's workspace, but cannot be a toilet stall.⁵⁹

Employers are not required to provide lactation breaks if doing so would seriously disrupt the employer's business operations.⁶⁰ This is a very high burden for an employer to meet, however, and lactation breaks will usually be required.

The consequences of failing to provide a lactation break are severe. The employer must pay a civil penalty in the amount of \$100.00 for each violation.⁶¹

CH. 5. BREAK RULES FOR EXEMPT EMPLOYEES

Certain employees are *not* entitled to rest breaks. These workers are called *exempt employees*.⁶² The most common types of exempt employees are professionals, administrators, and executives. But there are also exemptions or specific rules for certain industries.

5.1. WHITE-COLLAR EXEMPTIONS

In most cases, there are three simple requirements to determine whether a worker is an *exempt employee* under California law:

-  **Minimum Salary.** The employee must be paid a salary that is at least twice the state minimum wage for full-time employment.⁶³
-  **White Collar Duties.** The employee's primary duties must consist of ad-

⁵⁹ Labor Code, § 1031.

⁶⁰ Labor Code, § 1032.

⁶¹ Labor Code, § 1033.

⁶² Labor Code, § 226.7, subd. (e).

⁶³ Labor Code, § 515, subd. (a); Cal. Code of Regs., tit. 8, §§ 11010–11170 [providing that, for each exempted category, the employee must earn “a monthly salary equivalent to no less than two (2) times the state minimum wage for full-time employment”].

ministrative, executive, or professional tasks.⁶⁴

 **Independent Judgment.** The employee’s job duties must involve the use of discretion and independent judgment.⁶⁵

If all three requirements are met, the employee will usually be classified as “exempt.” In those cases, the employee is probably not entitled to rest breaks.

We have explained this test further in our article: [*Exempt vs. Non-Exempt Employees: Guide to California Law.*](#)

5.2. JOB-SPECIFIC EXEMPTIONS

There are also industry-specific exceptions to California’s meal and rest break rules. For example, employees with direct responsibility over children are sometimes allowed to take on-duty meal periods under circumstances that would be prohibited for other employees.⁶⁶

Other examples of industries that might have different rules include:

-  Employees in the health care industry,⁶⁷
-  Certain employees of public agencies,⁶⁸
-  Employees in the motion picture industry,⁶⁹
-  Employees in the wholesale baking industry,⁷⁰

⁶⁴ Labor Code, § 515, subd. (a).

⁶⁵ Labor Code, § 515, subd. (a) [requiring employees to “customarily and regularly exercises discretion and independent judgment in performing” the duties of their job].

⁶⁶ Cal. Code of Regs., tit. 8, § 11050, subd. 11(E).

⁶⁷ Cal. Code of Regs., tit. 8, §§ 11040–11050, subds. 11(D).

⁶⁸ Labor Code, § 512.5.

⁶⁹ Cal. Code of Regs., tit. 8, § 11120, subd. 11(A).

⁷⁰ Labor Code, § 512, subd. (c).

-  Employees covered by a valid collective bargaining agreement (commonly referred to as union employees),⁷¹
-  Commercial drivers,⁷²
-  Employees working in the construction industry,⁷³
-  Employees in the security services industry working as a security officer,⁷⁴ and
-  Employees working for an electrical corporation, a gas corporation, or a local publicly owned electric utility.⁷⁵

If you fall into one of these groups or you think that your industry might be exempt from California’s meal break or rest period laws, it would probably be a good idea to speak with a California employment attorney about your situation.

CH. 6. GETTING MONEY FOR MEAL AND REST BREAK VIOLATIONS

Employees who have been deprived of their right to take a rest period or meal break have three basic options:

-  Resolve their dispute informally with their employer,
-  File a lawsuit in court, or
-  File a wage claim with California’s Division of Labor Standards Enforce-

⁷¹ Labor Code, § 512, subd. (e).

⁷² Labor Code, § 512, subd. (f)(2).

⁷³ Labor Code, § 512, subd. (f)(1).

⁷⁴ Labor Code, § 512, subd. (f)(3).

⁷⁵ Labor Code, § 512, subd. (f)(4).

ment (the “DLSE”).⁷⁶

Unfortunately, many employers are unwilling to resolve the dispute informally. And lawsuits can be time-consuming and expensive.

Wage claims, on the other hand, are designed to reduce an employee’s risks and costs.⁷⁷ And the DLSE can issue citations to employers and require them to pay penalties to the employee.⁷⁸

Of course, the best way to resolve a meal and rest break dispute will depend on the employee’s specific situation. It’s usually a good idea to get the opinion of a lawyer before deciding how to proceed.

Employees should keep in mind, however, that there are strict deadlines they need to meet to file a wage claim or lawsuit. In general, a claim or lawsuit must be filed within **three years** of the alleged meal period violation.⁷⁹

CH. 7. DO YOU HAVE A CASE?

Now that you understand California’s meal and rest break laws, you may be wondering whether you have a decent legal case against your employer. This question is important because, if so, you might have a right to receive additional compensation from your employer.

⁷⁶ See *Reynolds v. Bement* (2005) 36 Cal.4th 1075, 1084 [“The employee may seek judicial relief by filing an ordinary civil action against the employer for breach of contract and/or for the wages prescribed by statute. [Citations.] Or the employee may seek administrative relief by filing a wage claim with the commissioner pursuant to a special statutory scheme codified in [Labor Code] sections 98 to 98.8.”].

⁷⁷ See *Sonic-Calabasas A, Inc. v. Moreno* (2013) 57 Cal.4th 1109, 1155 [“[T]he Legislature enacted the Berman protections ‘as a means of affording an employee with a meritorious wage claim certain advantages, chiefly designed to reduce the costs and risks of pursuing a wage claim, recognizing that such costs and risks could prevent a theoretical right from becoming a reality’ [citation].”].

⁷⁸ Labor Code, §§ 203, 1197.1.

⁷⁹ Labor Code, § 226.7; Code Civ. Proc., § 338; *Murphy v. Kenneth Cole Productions, Inc.* (2007) 40 Cal.4th 1094, 1110–1111.

There are several factors we, as lawyers, look at when determining whether our clients have a strong case. You might have a good case if, among other things, one of more of the following facts are present:

-  You do not receive two 10-minute paid rest breaks for an eight-hour shift.
-  You do not receive one 30-minute unpaid meal period for an eight-hour shift.
-  Your rest or meal period is often interrupted
-  You are on-call or on standby during your breaks.
-  Your supervisor discourages you from taking a legally-required rest or meal break.
-  You are not allowed to leave work during your 30-minute meal break.
-  You work and eat at the same time for your rest or meal break.
-  You work more than 10 hours per day and do not receive two 30-minute meal breaks.

If any of the above has happened to you, please call us at **(855) 670-1267** to determine if you are entitled to backpay for missed meal and rest breaks.

“you’ve worked hard for them

let us work hard for you.”

CONTACT US



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