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**EMPLOYMENT LAW
BULLETIN**

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New Law Takes Effect January 1, 2013 Regarding Employee Wage Statements

California employers are required to provide employees with wage statements along with their paychecks which itemize withholdings and include other information detailing the wages earned. California law already provides for the recovery of damages by an employee who suffers an injury as a result of the employer's "knowing and intentional failure" to provide a valid wage statement. However, until now the legislature had not clearly defined how such "injury" could occur. A new law taking effect January 1 provides guidance on this issue.

Under the new law, an employee is considered injured when the employee's wages are not accompanied by a wage statement. In addition, an employee will be deemed as having suffered an injury under the law if the wage statement fails to provide accurate and complete information, and the employee cannot "promptly and easily" determine from the wage statement the following required information:

- Total number of hours worked (along with the hourly rates) for hourly employees;
- Number of piece-rate units, if applicable;
- Gross wages earned;
- Net wages earned;
- Deductions made (including which deductions were made from gross wages to determine net wages);
- Inclusive dates of the pay period;
- Employee's name and only the last four digits of the employee's social security number (or an employee identification number); and
- Name and address of the employer.

The term "promptly and easily" means that a reasonable person would be able to readily ascertain the information without reference to other documents or information.

An employee suffering an injury as a result of his or employer's failure to provide wage statements which satisfy the above requirements can recover penalties up to \$4,000 against the employer, in addition to recovering costs and reasonable attorney's fees.

Employers will not be penalized if the noncompliant wage statement is the result of an isolated and unintentional payroll error. In determining whether a violation has occurred, a court may consider whether the employer adopted and is in compliance with policies and procedures that comply with the above law. Accordingly, employers should review their wage statements and related policies and procedures to insure that they are in compliance with these new legal requirements.

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