

Wage Rounding Policies for California Employers

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If your company rounds employee work time up or down as part of its record keeping and time tracking procedures for calculating hours and pay, a recent California appellate court provided additional support for the general practice, but noted that rounding employee wages is legal only under certain circumstances.

In [See's Candy Shops v. Superior Court of San Diego](#) (10/29/12), a former employee sued for wage and hour violations and two of the affirmative defenses raised by the company brought the issue of rounding into play.

See's routinely rounded time cards up or down to the nearest tenth of an hour. The 4th District Court of Appeal in *See's* recognized that employers throughout the country have used the practice of rounding for many years, but noted that "there is no California statute or case law specifically authorizing or prohibiting this practice."

However, the Court also noted that 50 years earlier the US Department of Labor had adopted a regulation that permitted rounding under certain circumstances and that the California Division of Labor Standards Enforcement had adopted the federal regulation in its manual.

Even though the manual wasn't binding on the Court, the appellate decision held, consistent with Federal cases, that "an employer is entitled to use the nearest-tenth rounding policy if the rounding policy is fair and neutral on its face and it is used in such a manner that it will not result, over a period of time, in failure to compensate the employees properly for all the time they have actually worked."

As such, the plaintiff lost the summary judgment motion related to the rounding issue. However, the Court was not shy in noting that the decision left open which party would win at trial with respect to See's nearest-tenth rounding policy.

In other words, the See's policy could be found illegal if it is determined not to be fair and neutral on its face or if it does not result, over a period time, in employees being compensated for all time actually worked.

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