

LAW FIRMS TARGETING NURSES FOR FLSA CLAIMS

Recently, unsolicited advertisements have been turning up in mail boxes of nurses in Tennessee and Georgia. These letters include the following statements:

“Currently, we are investigating claims against various healthcare employers for failing to pay compensation to their nursing staff employees for time spent working during lunch. It is our understanding that it is a prevalent industry practice to automatically deduct a nurse’s time allotted for lunch, regardless of whether the employee is actually relieved from his or her job duties. Such practice may violate federal wage payment laws.”

While such solicitations may rightfully be the source of more lawyer-bashing, they should nonetheless be taken seriously. As you know, wage and hour compliance can be complicated and honest mistakes can still be costly.

Fair Labor Standards Act regulations require employers to keep and maintain an accurate record of all hours worked for each employee. They do not prescribe the method of recording hours worked, so long as the records accurately reflect the number of hours worked each day and each week by the employee. Bona fide meal periods are not compensable worktime. Ordinarily 30 minutes or more is long enough for a bona fide meal period. However, the employee must be free from his or her duties during this time for it to be unpaid.

Automatic deductions for meal periods are not, *per se*, illegal. However, they do pose special challenges for employers. It is important that employees are paid if their job precludes them from taking a meal break and that they know how to report this so that their time records will be accurate. It is also important that supervisors are trained on managing meal breaks to ensure that employees are getting their meal time and being compensated for times they do not take a meal break.

This should also serve as a reminder to review meal and break policies to ensure that they are in compliance with both federal and state law and to review time records to ensure that they are being properly and accurately maintained.

Miller & Martin has extensive expertise in providing supervisory training and compliance assistance and in defending wage and hour claims, and has [Labor & Employment attorneys](#) who focus on servicing the [healthcare industry](#). If you have any questions or need any assistance, please do not hesitate to contact [Eric Stevens](#) at (615) 744-8423 (estevens@millermartin.com) or any other member of Miller & Martin's Labor & Employment Practice Group.

The opinions expressed in this bulletin are intended for general guidance only. They are not intended as recommendations for specific situations. As always, readers should consult a qualified attorney for specific legal guidance. Should you need assistance from a Miller & Martin attorney, please call 1-800-275-7303.

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