

Woska Associates
Employment Law Group

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Employment Law Forum

Pay Claims

The California Labor Code addresses pay issues ranging from the frequency of pay days¹ to when the final pay check must be issued to a terminated worker.² The California Department of Industrial Relations (DIR) was established to improve working conditions for California wage earners and to advance opportunities for profitable employment in California.³ A division of DIR – the Division of Labor Standards Enforcement (DLSE) – is responsible for adjudicating wage claims and conducts investigations of discrimination and complaints concerning the workplace.⁴ DLSE also enforces Labor Code statutes and Industrial Welfare Commission orders.

It is not unusual to find that workers do not understand their rights with respect to compensation. Furthermore, many employers are not knowledgeable of their legal obligations with respect to paying employees. For example, claims are regularly filed against employers in California who do not pay discharged workers all wages, including accrued vacation, immediately upon termination.⁵ Another example - employers in many instances do not realize that vacation hours, when earned, are considered the same as deferred income. The value of the vacation hours vests immediately, even if the worker has not acquired the necessary time on the job to use the accumulated vacation.⁶

The DLSE provides California workers relief concerning wage claims by conducting investigations to ascertain compliance with the Labor Code. If a worker is unable to resolve the pay dispute with the employer, an “initial report or claim” is filed on a form provided by DLSE.⁷ The worker provides an explanation of the pay dispute in addition to the amount claimed. The completed claim form is submitted to DLSE and an investigation may subsequently occur. It is not unusual for a dispute to be resolved following the initial telephone contact by a DLSE representative informing the employer of the pertinent law concerning the matter.

Employee Action Prior to Contact DLSE

Workers are expected to have contacted the employer who is the subject of the pay claim prior to contacting DLSE. There are questions on the “pay claim form” inquiring as to whether the contact was in person or by mail.⁸ Many pay claims involve either not receiving final compensation on a timely basis or not being paid for accrued vacation hours. Following are generic form letters for each that may be used for most

pay disputes. Exceptions would include certain types of employment including employees discharged from the production of motion pictures,⁹ employees in the oil drilling business,¹⁰ and employees who voluntarily terminate their positions.¹¹ The claimant “fills in the blanks” as to pertinent information and sends to the subject employer. If the employer does not respond or fails to resolve the complaint, the claimant may attach the pay claim letter to the completed DLSE “initial report or claim” form, and any response from the subject employer, when filing the claim with DLSE.

Filing Pay Claims with Employer

- Pay claim letter when not receiving final check. (Attachment #1)
- Pay claim letter when not receiving payment for accumulated vacation hours. (Attachment #2)

Filing a Claim with DLSE

If the former employer does not pay wages that are due after receiving the pay claim letter, a claim may be processed with DLSE as follows:

1. Download the “initial report or claim” form from the DLSE website. (The Google search was found most convenient – enter www.dir.ca.gov/dlse/howtofilewageclaim).
2. Download the “initial report or claim” form located next to “how to file claim.”
3. Complete the “initial report or claim” form and attach the pay claim letter that was sent to the former employer and any response from the former employer refusing the claim.
4. Send to the nearest DLSE office (www.dir.ca.gov/dlse).

A pamphlet is available from DLSE entitled “Policies and Procedures for Wage Claim Processing” that may be downloaded from the website address listed under number one above.

If further assistance is required concerning a pay claim, contact Woska Associates.

¹ California Labor Code Sec. 204 *et seq.*

² California Labor Code Sec. 201.

³ California Labor Code Sec. 50.5.

⁴ California Labor Code Sec. 79 *et seq.*

⁵ California Labor Code Sec. 201.

⁶ *Suastez v. Plastic Dress-Up Co.*, 31 Cal.3d 774 (1982).

⁷ DLSE Form 1/Wage Adjudication.

⁸ *Id.*

⁹ California Labor Code Sec. 201.5.

¹⁰ California Labor Code Sec. 201.7.

¹¹ California Labor Code Sec. 202.