Washington Supreme Court Clarifies State Meal Break Requirements

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Under Washington State’s meal break statute, an employer must provide an employee working five or more consecutive hours a 30-minute meal period, although employees may waive the meal break under state law. In answering questions certified to it by a federal district court, the Washington Supreme Court first explained that the statute does not provide for strict liability, that is, an employer does not always violate the statute whenever an employee misses a meal break. But if an employer is not automatically liable under the statute when an employee misses a meal break, what standard applies? Answering this second, and more difficult question, the court rejected the more employer-friendly approach adopted by the district court and proposed by Autozone – that the employer’s burden is merely to provide the employee with a meaningful, reasonable opportunity to take the meal break, without impeding or discouraging the employee from doing so – and instead concluded that a greater burden exists on employers when an employee asserts a meal break violation under WAC 296-126-092. Under the standard adopted by the court, an employee satisfies his or her prima facie case by providing evidence that he or she did not receive a timely meal break. The ultimate burden of proof then shifts to the employer to demonstrate either that no violation occurred (i.e., the employee was in fact provided a meal break) or that a valid waiver existed. Brady v. Autozone Stores, Inc., 2017 Wash. LEXIS 681 (Wash. June 29, 2017).

In light of the holding, employers should continue to ensure that their employees are taking required meal breaks or, if an employee elects to waive that right, that proof of the waiver exists, preferably in writing and signed by the employee.

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