

WYNNE LAW FIRM

CHASE ASSISTANT BRANCH MANAGER OVERTIME NEWSLETTER

JULY 2015 NEWSLETTER

UPDATE ON LAWSUIT FILED AGAINST JPMORGAN CHASE BANK FOR POTENTIAL OVERTIME VIOLATIONS.

On February 25, 2015, Wynne Law Firm filed a putative class action against JPMorgan Chase Bank, National Association (Chase Bank) on behalf of current and former salaried Assistant Branch Managers (ABMs) seeking overtime compensation. The case was filed in the Solano County Superior Court, California. The action seeks to include all ABM's in California who worked between February 25, 2011 to the present. The action seeks to recover earned and unpaid overtime compensation based on the allegation that Chase Bank has misclassified its ABM's as exempt when they should be classified as nonexempt and paid overtime compensation.

Subsequent to filing the case in state court, Chase answered the complaint and removed the case from state court to federal court located in Sacramento. Plaintiff then brought a motion to transfer the case from the federal court in Sacramento to the federal court in San Francisco. Chase did not oppose the motion and it was granted on June 4, 2015.

Subsequently, Chase has filed its own motion to transfer the action from San Francisco to the federal court in Los Angeles. Plaintiff has opposed this motion. The motion is currently scheduled to be decided on August 20, 2015.

SETTLEMENT OF THE *HIGHTOWER* CASE.

In 2011, a case was filed against Chase on behalf of nonexempt hourly employees of Chase including tellers. The case was brought by an employee named Hightower and he sought unpaid wages for working off-the-clock and related damages and penalties.

A number of other cases around the country were also filed against Chase on behalf of nonexempt employees seeking unpaid wages as well. Those cases were transferred to the court hearing the *Hightower* case in Los Angeles.

A settlement of that case was subsequently reached and given preliminary approval by the court

on February 3, 2015. Notice has gone out and a final approval hearing has been set for August 3, 2015.

The settlement in the *Hightower* case does not affect the claims alleged in this case because this case concerns claims brought by ABMs who were classified as exempt by Chase while the *Hightower* settlement covers employees like tellers who were classified as nonexempt by Chase.

SALARIED EMPLOYEES MAY BE ENTITLED TO OVERTIME.

There is a common misconception that salaried employees (e.g., Managers, Assistant Managers, etc.) cannot receive overtime. Many employees are often told they are "exempt" from overtime because they are salaried and/or because they have the title "manager." This is not always correct. California law states that, regardless of your title and whether you are salaried or hourly, you may be entitled to overtime if you spend 50% or more of your time engaged in non-managerial activities. If you spend more than 50% of your time engaged in non-managerial activities, you might be entitled to overtime even though you are paid a salary and have a "manager" title. How can you tell? Take this short test:

OVERTIME TEST.

- A.** Are you paid a salary?
- B.** Do you work more than 40 hours per week?
- C.** Do you spend 50% or more of your work time engaged in non-management work such as: serving as a teller, performing routine operational activities like filling the ATM, filling out routine paperwork, performing customer service, engaging in sales activities, and generally doing the same kind of work as hourly subordinates?

If you answered "YES" to all of the three questions above, you may be owed overtime compensation under California law.

MEAL BREAKS

Under California law, no employer shall employ any person for a work period of more than five (5) hours without an off duty meal period of not less than 30 minutes, except that when a work period of not more than six (6) hours will complete the day's work the meal period may be waived by mutual

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consent of the employer and the employee. Unless the employee is relieved of all duty during a 30 minute meal period, the meal period shall be considered an "on duty" meal period and counted as time worked. An "on duty" meal period shall be permitted only when the nature of the work prevents an employee from being relieved of all duty and when by written agreement between the parties an on-the-job paid meal period is agreed to. Further, employers must keep time records showing whether meal periods are taken. Failure to comply with the meal period laws subjects the employer to liability for one hour of pay for each violation.

REST BREAKS

Under California law every employer shall authorize and permit all non-exempt employees to take off duty rest periods, which insofar as practicable shall be in the middle of each work period. The authorized rest period time shall be based on the total hours worked daily at the rate of ten (10) minutes net rest time per four (4) hours or major fraction thereof. However, a rest period need not be authorized for employees whose total daily work time is less than three and one-half (3 1/2) hours.

Authorized rest period time shall be counted as hours worked for which there shall be no deduction from wages. Failure to comply with the rest break laws subjects the employer to liability for one hour of pay for each violation.

FREQUENTLY ASKED QUESTIONS.

IF CHASE BANK OR ITS ATTORNEYS ASKS ME TO SIGN A STATEMENT, DO I HAVE TO?

No. No one, especially your employer or its attorneys, can involuntarily force you to sign a statement. Employers in this type of case frequently request declarations from their current employees in an effort to stop the case from going forward as a class action and to defeat the claims for back wages. Be aware that employers in this type of case may have interests that are antagonistic to yours and the attorneys for the employer are under an ethical duty to disclose a potential conflict of interest. Anything you testify to may be used against you. So, if you sign anything, make sure that you first (1) understand what the purpose of the statement is, (2) understand

everything that is written, and (3) make sure everything is the truth.

WHAT IF THERE ARE NO RECORDS OF MY ACTUAL HOURS WORKED?

All that is needed is your best recollection. In the typical situation where the employer has not kept any accurate records of when its salaried employees work, the law provides that the next best evidence is what the employee said he or she worked. The employer then must disprove this evidence and that is very difficult when the employee's testimony is true and the employer has no records.

CAN I GET FIRED FOR BRINGING OR PARTICIPATING IN A CLASS ACTION?

It is against the law for an employer to take any retaliatory action against an employee in response to an employee exercising a legal right such as seeking overtime pay or even providing evidence as a witness in such a case. Such conduct by an employer can subject the employer to further legal action including claims for punitive damages.

HOW FAR BACK CAN CLAIMS FOR OVERTIME GO?

Four years from the date the complaint is filed.

PUBLISHER INFORMATION.

We are prosecuting a case against Chase on behalf of our client. We are responsible for this Newsletter. We are seeking factual information from former and current employees of Chase to assist us in our prosecution. All of the information in this Newsletter is our opinion based on information gathered to date.

For a list of past cases we have prosecuted on behalf of employees, please visit our website at www.wynnelawfirm.com

You may contact us confidentially to discuss your legal rights.

Edward J. Wynne

Wynne Law Firm

100 Drakes Landing Road, Ste. 275

Greenbrae, CA 94904

Tel: (877) 352-6400 ♦ Fax: (415) 461-3900

Email: ewynne@wynnelawfirm.com

Web: www.wynnelawfirm.com