

DEPARTMENT OF INDUSTRIAL RELATIONS  
**DIVISION OF LABOR STANDARDS ENFORCEMENT**  
*LEGAL SECTION*  
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ROBERT R. ROGINSON  
Chief Counsel

## MEMORANDUM

**TO:** DLSE Staff

**FROM:** Robert Roginson  
Chief Counsel

**DATE:** March 7, 2008

**SUBJECT:** Meal and Rest Period Claims

On April 16, 2007, Deputy Chief Lupe Almaraz issued a Memorandum to the DLSE staff informing of the California Supreme Court decision in the case of *Murphy v. Kenneth Cole*. In that case, the California Supreme Court held that the remedy for meal and rest period violations of “one additional hour of pay” under Labor Code section 226.7 is a wage subject to a three-year statute of limitations rather than a penalty subject to a one year statute of limitations.

A copy of Deputy Chief Almaraz’s memo dated April 16, 2007 is attached.

Please post this Memorandum, including the April 16, 2007 memorandum attached, in the public bulletin boards in all DLSE offices until August 15, 2008.

Cc: A. Bradstreet, Labor Commissioner  
D. Padres, Deputy Chief  
C. Grafil, Special Assistant  
Assistant Chiefs  
Regional Managers  
DLSE Attorneys



**State of California**  
**DIVISION OF LABOR STANDARDS ENFORCEMENT**  
**MEMORANDUM**

DATE: April 16, 2007

TO: DLSE Staff

FROM: Lupe Almaraz, Deputy Chief

SUBJECT: Meal and Rest Period Claims

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Today, the California Supreme Court rendered, in a 31 page opinion, its decision in the case of *Murphy v. Kenneth Cole*. The Court specifically and definitively held that meal and rest period pay claims are wages subject to the three (3) year statute of limitations provided by CCP section 338. *Murphy* effectively overrules the *Hartwig v. Orchard commercial, Inc.* precedent decision to the extent that it held otherwise.

The *Murphy* decision, by implication, allows employees who are owed LC 226.7 pay at time of termination, to recover waiting time penalties pursuant to LC 203 if all final wages are not paid in accordance with LC 201/202. The Court also determined that reporting time pay and split shift premiums are wages, therefore, they would also be subject to LC 203 penalties (and interest).

Please ensure that any case filed with DLSE that has a meal or rest period issue (as well as reporting time or split shift pay) be reviewed by your Senior prior to making any final determination on its merit. This includes any claim now scheduled for hearing pursuant to LC 98a.

Cc: R. Jones, Acting Labor Commissioner  
C. Grafil, Special Assistant  
Assistant Chiefs  
Regional Managers  
Johanna Hsu, Assistant Chief Counsel