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## Yes, You Can Settle A Wage Claim

Periodically, employers are faced with a difficult decision regarding employee compensation issues. When an employer determines an employee may be misclassified, the employer often considers modifying the classification and attempting to resolve the issue through a release of claims. Unfortunately, certain California Labor Code sections leave doubt about whether such an attempt is appropriate.

For example, Labor Code section 206.5 states

(a) An employer shall not require the execution of a release of a claim or right on account of wages due, or to become due, or made as an advance on wages to be earned, unless payment of those wages has been made. A release required or executed in violation of the provisions of this section shall be null and void as between the employer and the employee. Violation of this section by the employer is a misdemeanor.

(b) For purposes of this section, "execution of a release" includes requiring an employee, as a condition of being paid to execute a statement of the hours he or she worked during a pay period which the employer knows to be false.

Similarly, Labor Code section 206 states:

(a) In case of a dispute over wages, the employer shall pay, without condition and within the time set by this article, all wages, or parts thereof, conceded by him to be due, leaving to the employee all remedies he might otherwise be entitled to as to any balance claimed.

As a result, an employer may avoid modifying the classification or attempting to resolve the wage claim through an enforceable release. At long last, a California appellate court has clarified that indeed, an employer may work directly with the employee to settle individual wage claims and

that a written release signed by the employee is enforceable against the employee's future claims, including the employee's right to join a class action lawsuit.

In *Chindarah v. Pick Up Stix, Inc.*, the company was faced with a class action involving overtime compensation. The company attempted to settle the claims directly with employees. In exchange for settlement monies, some employees agreed to sign agreements releasing all their claims, including their right to join in the class action.

Despite the release agreements, the attorneys pursuing the class action included employees who had released their rights. In turn, the company sued the employees for breach of the release agreements. Upon review, the appellate court found in favor of the company and dismissed the employees from the class action.

The court enforced the releases because there was a bona fide dispute as to whether the employer owed overtime compensation. Apart from the settlement monies, the company paid all conceded wages and had a legitimate defense to the claim for additional compensation. The court rejected the argument that only the California Labor Commissioner could settle wage claims and the argument that all disputed wages had to be paid in order to release claims.

Thus, the employees may have been entitled to full overtime compensation had they refused the settlement, but by accepting the settlement and signing the release in the midst of a bona fide dispute, the release became enforceable and they were properly excluded from the class action.

In practical terms, this helps employers who may have pending wage claims. Employers who find potential errors in overtime classifications are free to negotiate regarding overtime, meal and rest period violations or other compensation issues. So long as there is a legitimate dispute regarding the unpaid compensation, employees can waive their right to compensation with appropriate consideration and a properly worded release agreement. This permits employers to rectify prior errors or questionable classifications with less concern for notifying employees of potential claims. Employers can state

the dispute and offer a payment to employees, who, upon acceptance, sign a release and waive their rights to future claims and thereby curtailing future litigation.

For more information about the topic above, contact Treaver Hodson ([thodson@pkwhlaw.com](mailto:thodson@pkwhlaw.com)) or call (877) 783.6699.