

As printed in the Orange County Register

### **OC Register Q&A – Travel Time**

**Q.** My employer is based in the mid west; employs over 10,000 people worldwide. As Service Technicians, I maintain a home office, where I make phone calls, respond to emails and pages, and complete paperwork.

Recently, the company announced a change to our travel policy. They said we had to "clock out" and drive on our own time to our first service call. They said the nominal default time would be 30 minutes to our first call location. They said to consider the first 30 minutes of travel as a "break". Additionally, we were told to do the same thing when we drive to our home office from the last service call of the day. I often use drive time to answer cellular phone calls and respond to pages.

Nevertheless, we are not being paid for 5 hours of travel time each week. When we pointed these issues out to them, they said they had checked the labor law and the new policy is legal. I am pretty sure my employer is working outside the law in this instance, especially in California. What is the law regarding this in California and in other states?

**A.** In California, when an employee is required to report to a work site other than the regular site, and goes directly to that site without first going to the regular site, the employer must pay the employee travel time for any time in excess of the employee's normal commute time to and from the regular site. If travel time in either direction or travel time and work time exceeds eight hours in a workday, the employee must receive travel pay at one and one-half times the weighted average of his/her regular pay rate and the travel time rate, if any. In your case, the company has determined that the normal commute time to the company's office location is 30 minutes. Any travel time in excess of 30 minutes, or travel time that results in excess of 8 hours worked in a day may be subject to overtime or travel time pay.

Pay for travel time may be at a lower rate than the employee's normal rate of pay. If travel time pay is paid at less than the employee's normal earnings, the policy must be clearly outlined to all employees in advance.

Also, due to the safety risks of using a cell phone while driving, the company may prohibit its use during your commute. You should check your company's policy on the use of cell phones. Each state may have its own regulations on travel time pay and cell phone use. If a state does not have a specific regulation, the company is subject to the Federal Fair Labor Standards Act regarding travel time and overtime.

- Written by Audrienne Adams