

## **OC REGISTER Q&A**

### **VACATION PAY FOR COMMISSIONED EMPLOYEES**

Q. I took a sales position last August with a small company that agreed to pay a salary for the first year of service. Beginning with the second year of service, the salary plan would give way to a small hourly wage plus commission plan. Vacation would also be awarded beginning with the second year.

My question is at what rate should I be paid vacation hours? The difference between my salary hourly rate and current hourly rate is very significant. There will no opportunity to earn commission whatsoever while at vacation.

I feel that if the company requires you to work a full year in order to earn your vacation, than the rate of pay for that vacation should be at the rate of pay paid while achieving that benefit. There is no written policy within the company to support either side of the issue.

A. There is no set rule under California Labor Code for employers who offer vacation benefits to commissioned employees on how to compute the dollar value of accrued vacation leave. Typically, employers compute vacation pay for commissioned employees based on an average earnings figure over a reasonable time period or pay a set hourly amount regardless of actual normal earnings.

The method of determining the rate for vacation pay for commissioned employees should be stated in your company handbook or your written commission plan or contract.