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In *Androckitis v. Virginia Mason Medical Center*, the Washington State Court of Appeals recently held that the remedy for meal period violations includes three components: (1) payment of time worked during the meal period; *plus* (2) 30 minutes of pay as a penalty; *plus* (3) double damages on unpaid amounts as a willfulness enhancement.^[1]

This penalty pay ruling breaks new ground because Washington's meal period laws and regulations do not authorize penalties. Rather, meal and rest period violations have historically been pursued as wage claims for uncompensated time worked.

Perkins Coie is hosting a **webinar on November 12 at 11:00 a.m. PT** to further discuss the *Androckitis* ruling and what it means for Washington employers. [Click here to sign up for the webinar.](#)

Trial Court

At the trial court, plaintiff Rheannon Androckitis brought a putative class-action lawsuit on behalf of current and former nonexempt Virginia Mason employees. Among other allegations, Androckitis claimed that Virginia Mason failed to provide compliant meal periods and 30 minutes of penalty pay to compensate employees for any noncompliant meal periods. She claimed that the failure to provide penalty pay violated the Washington Industrial Welfare Act, Minimum Wage Act, and Wage Rebate Act.

Like many employers, Virginia Mason's timekeeping system required employees to attest each shift as to whether they received a meal period. As part of this self-reporting process, Virginia Mason's timekeeping system automatically deducted 30 minutes of pay for meal-period-eligible shifts but reversed the deduction when employees reported a noncompliant meal period, thereby paying employees for time worked during the meal period. Androckitis claimed that paying employees only for time worked was insufficient under Washington law; she sought damages for time worked *plus* 30 minutes of penalty pay *plus* double damages on the unpaid penalty pay.

The trial court entered summary judgment in Androckitis' favor, ruling that 30 minutes of penalty pay for each noncompliant meal period is an appropriate way to measure damages. The trial court also found that the penalty pay could be doubled if not timely paid, which in this case retroactively awarded Androckitis and the putative class double damages on all allegedly unpaid penalties during the limitations period (*i.e.*, the trial court awarded 60 minutes of penalty pay for each alleged meal period violation).

Court of Appeals

The Washington State Court of Appeals affirmed the trial court's summary judgment order, finding that the trial court did not abuse its discretion in awarding 30 minutes of penalty pay for each noncompliant meal period. The Court of Appeals rejected Virginia Mason's arguments that the wage laws at issue only pertain to unpaid time worked and are not a penalty statute. In reaching this decision, the Court of Appeals acknowledged that Washington law does not explicitly require penalty pay. But the Court of Appeals justified penalty pay as the Washington Legislature's intent:

[I]f an employer could have a policy of providing an employee with an unpaid meal period, require an employee to work during that unpaid meal period, pay that employee for their hours worked, and not provide that employee with another meal period, then, on balance, the employer would receive 30 minutes of additional labor from the employee and the employee would not have received 30 minutes of respite from work—frustrating the legislature's clear directive in the welfare act to protect workers against unhealthy conditions of labor.

As to doubling the penalty pay for willfully withholding wages, Virginia Mason argued that the failure to pay a penalty was not "willful" because there was a bona fide dispute whether Washington law required penalty pay. The Court of Appeals rejected this argument, finding that "it is well-settled that employees covered by the Industrial Welfare Act have a right to a meal period free from rest or exertion."

Notably, the Court of Appeals characterized the trial court's ruling as an "appropriate remedy," but stopped short of calling 30 minutes of penalty pay the exclusive measure of damages. In other words, the Court of Appeals left

open whether a trial court could award a different measure of damages, such as if the meal period violation was slight. And notably, the Court of Appeals' ruling indicates that penalty pay is not required if the employee has the "opportunity to receive a 30-minute respite later in their shift."

Takeaways

Under *Androckitis*, an employee could be entitled to 120 minutes of damages for a single meal period violation (30 minutes of unpaid time worked during the meal period plus 30 minutes of penalty pay, doubled for willfulness). Accordingly, in light of *Androckitis*, all businesses with hourly employees located in Washington should review their meal period and pay policies. We will continue to monitor this case, including whether it is appealed to the Supreme Court of Washington.

Companies should consult with trusted legal counsel if they have questions or concerns about their meal period and pay practices following *Androckitis*.

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Endnote

[1] *Androckitis v. Virginia Mason Med. Ctr.*, No. 85502-6-I, 2024 WL 4352175 (Wash. Ct. App. Sept. 30, 2024).

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