

Know Your Law: W

By Dean Royer, Esq.

Editor's Note: Millions of workers in our community and in our country fall outside of the dubious protections of federal labor laws — farm workers, domestic and service workers as well as independent contractors — also known as “unrecognized” workers. They often have no benefits on the job and even though by law they should receive at least minimum wage, they do not. For many, the minimum wage is actually the maximum wage. However, over the last several decades, CCLP has assisted organizations of these “unrecognized” workers in their fight for meaningful legal recourse through provision of free-of-charge legal advice, legal education and even a class action suit against the State of California on behalf of the state’s thousands of migrant farm workers. In the article below attorney Dean Royer, a volunteer and member of CCLP, outlines some of the basic laws applicable to these groupings of workers.

On February 4, 2017, I gave a Know Your Law presentation about Wage and Hour laws. These are the protections (however limited they may be) that people without collective bargaining agreements have in California workplaces. This article will give a summary of these laws, and provide information about questions that came up during the session.

Before we dive into the laws, it is important to understand that they only protect people who are “employees” in the eyes of the law. Independent contractors have no protection. Also, “Non-exempt” workers (generally speaking, non-managerial employees) in the private sector have the most protection.

Hours of Work and Pay

Minimum Wage. All employers must pay their employees the applicable minimum wage. The amount depends on where the work is performed. For people who work in San Francisco, the minimum wage is set by San Francisco [City and County] law, currently \$13 per hour. For employees working in California locations that do not have local minimum wage laws, the current minimum wage is \$10.50 per hour if the employer has 26 or more employees, or \$10 per hour for employers with 25 or fewer employees. Across

the United States, if there is no state or local minimum wage, the federal minimum wage set pursuant to the Fair Labor Standards Act is currently \$7.25.

Overtime pay. Employers must pay their non-exempt employees overtime pay. In California, overtime kicks in once the worker works more than 40 hours per week OR more than eight hours in a day, as long as they are not live-in workers. Personal attendants do not get overtime until they work more than 40 hours per week (under federal law) OR more than nine hours a day. Personal attendants include any persons employed by a private householder or by any third-party employer recognized in the healthcare industry to work in a private household, to supervise, feed, or dress a child, or a person who by reason of advanced age, physical disability, or mental deficiency needs supervision.

Question: Are youth (minors) covered by minimum wage and overtime laws?

Answer: Yes, unless their employer is their parent.

Question: Are workers who get paid by the unit (“piece rate,” such as agricultural workers) entitled to be paid the equivalent of the minimum wage?

Answer: Yes. If the piece rate pay falls below the minimum wage rate for the hours worked, the employer must make up the difference.

Final pay check. Employers in the private sector must give their terminated or laid off employees their final pay check on the last day of work at the workplace. When workers resign, they also must receive their final pay check on the last day of work if they give at least 72 hours of notice; otherwise, the employer has

**Myles Davis - Fine Artist
I support CCLP's effort
to organize the community
and provide justice
for all.**



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