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Court Defines "Discharge" For Purposes Of Waiting Time Penalties

Smith v. Superior Court of Los Angeles County (L'Oreal USA, Inc.) is an important decision for employers because it provides some clarity on the meaning of "discharge" under Labor Code Sections 201 and 203. In *L'Oreal*, a hair model was hired for one day at a flat fee to model in a hair show. For her day's work, she was to be paid \$500. Two months later, L'Oreal paid her the \$500 owed. The hair model filed a class action claiming that her employer violated California Labor Code Section 201 because it did not pay her and other models immediately upon the completion of her work. Labor Code Section 201 requires the immediate payment of wages to an employee upon the employee's "discharge". The model also sought waiting time penalties under Section 203. Section 203 imposes waiting time penalties against employers for the failure to timely pay under Section 201. The model demanded "wages" (\$500 per day) for 30 days as a penalty for the late payment (a total of \$15,000).

The trial court and the court of appeal found in favor of the employer and concluded that waiting time penalties were not owed. The courts held that the plaintiff was not "discharged" for purposes of Sections 201 and 203. The Court clarified the meaning of "discharge" under these sections. The Court looked to the plain meaning of the word, the statutory context, and out-of-state authority and concluded that "'discharge' means the affirmative dismissal of an employee by an employer from ongoing employment and does not include the completion of a set period of employment or a specific task." Under *L'Oreal*, an employer does not "discharge" an employee under the Labor Code when the employee has completed the specific tasks or term for which he/she was employed.

The payday and final pay rules are quite rigid in California. All employers should carefully review their practices in this area to ensure compliance.

For more information about this issue, please contact a member of the Labor and Employment Practice Group in one of our offices.

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