

FOCUS ON CALIFORNIA WAGE STATEMENTS

Listing of PTO Unnecessary on Wage Statements, California Court Rules

California law does not require employers to include the monetary value of accrued vacation pay or paid time off (PTO) in its employees' wage statements, according to a recent appellate decision.

In *Soto v. Motel 6, Operating L.P.*, (Cal. Ct. App. October 20, 2016), the plaintiff filed a lawsuit on behalf of herself and similarly situated workers, alleging that her former employer, Motel 6, violated California law by failing to provide employees with wage statements setting forth "all vacation and accrued PTO (paid time off) wages accrued during the applicable pay period."

California Labor Code § 226 requires employers to report several categories of information on employee wage statements when they are paid, including gross and net wages earned. The Court of Appeal noted that the highly detailed provisions of Section 226(a) include nine separate categories but neither vacation time, nor its monetary value, is among the categories. The court determined that this omission reflected a legislative intent that accrued vacation time need not be itemized.

In rejecting Soto's argument that even though vacation benefits are not specifically identified in Section 226 they constitute wages that should appear on statements, the court explained that paid vacation "is a form of deferred wages for services rendered, similar to a pension or retirement benefit" and an employer cannot determine the value of vacation time during employment because it may depend on the final rate of pay. Thus, "although vacation time vests as the labor is provided, unused vacation time does not become a quantifiable vacation wage until the employee separates from the employment."

The Court of Appeal noted that its interpretation is consistent with the purpose of Section 226, which is to ensure that employers document the wages being *paid* so that the employee is informed about his or her compensation and has the information necessary to challenge any shortfalls.

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