

SAN FERNANDO VALLEY BUSINESS JOURNAL

on the web

Home

■ THE LISTS ■ EVENTS ■ REGISTRATION ■ SUBSCRIBE ■ ADVERTISING ■ REGIONAL EDITIONS ■ ABOUT US





ADVANCED SEARCH



SIGN IN

SFVBJ





[Advertising/Media/PR](#)
[Banking/Finance](#)
[Economy](#)
[Energy/Utilities](#)
[Entertainment](#)
[Government/Politics](#)
[Healthcare](#)
[Hospitality/Tourism](#)
[International](#)
[Trade/Transportation](#)
[Labor](#)
[Law/Courts](#)
[Manufacturing](#)
[Real Estate](#)
[Small Business](#)
[Technology/Telecom](#)

Posted date: 7/31/2006

Decision Puts Strict Rule on Pay of Temp Workers

By SUE BENDAVID-ARBIV and NICHOLAS KANTER
Guest Columnists

The California Supreme Court just ruled on an issue that could have an enormous impact on how employers pay temporary workers on completion of job assignments.

Under California law (Labor Code section 201) an employer who discharges an employee must pay that employee all wages earned and unpaid at the time of discharge. The Labor Code imposes stiff penalties for employers who fail to timely pay all final wages upon discharge. The issue before the Supreme Court was the meaning of the term “discharge” in connection with employees on temporary job assignments. In *Smith v. Superior Court of Los Angeles; L’Oreal USA, Inc.*

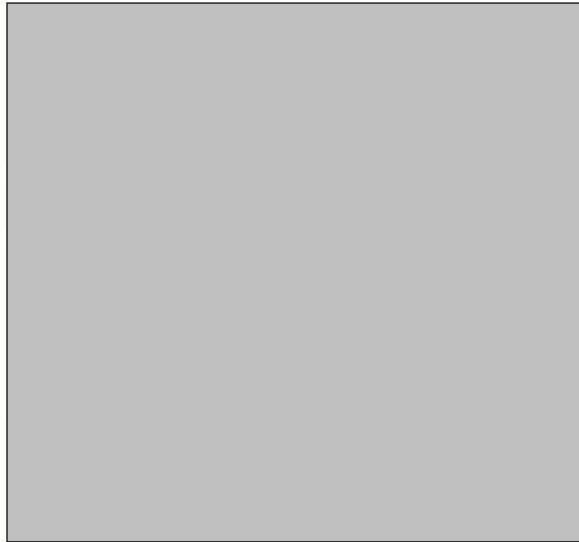
L’Oreal asked plaintiff Amanza Smith, a salesperson at a Beverly Hills boutique, to be a hair model at an upcoming show. L’Oreal agreed to pay Smith \$500 for one day’s work at the show. Smith attended the show and stayed until she was told she could leave. L’Oreal waited for over two months to pay her and did not pay her immediately after her job assignment ended.

Smith later brought a lawsuit against L’Oreal. She sought \$15,000 in penalties representing 30 days of unpaid wages at the rate of \$500 per day. L’Oreal asked the court to dismiss the case arguing that Smith could not recover penalties because the termination of the one-day job assignment did not constitute a “discharge” requiring an immediate wage payment. Ultimately, the case went up to the Supreme Court.

In ruling in favor of the employee, the Supreme Court said that the state has an interest in requiring the timely payment of employee wages. This is: “because ... the average worker . . . depend(s) on wages for the necessities of life for himself and his family (and) . . . it is essential to the public welfare that he

receive his pay when it is due.” The Court also relied on dictionary definitions of the term discharge to mean “release from service or duty,” or “dismissal or release from employment...”

The Court held:



An employer effectuates a discharge . . . not only when it fires an employee, but also when it releases an employee upon the employee’s completion of the particular job assignment or time duration for which he or she was hired. The Court did not believe that an employee who is released after completing a specific

job duty is any less deserving of immediate payment of wages than the employee who is actually fired from his or her job.

This ruling means that employers need to reconsider how they pay temporary workers when the assignment of those workers has ended. It is no longer okay to wait until the next payroll period to pay those workers. The following are a few suggestions for employers to follow:

1. Always pay employees at the time of termination. If you know you are going to terminate an employee, have a check ready to hand to them.
2. Have the terminated employee sign a written acknowledgement confirming they received their paycheck on the day they were terminated. The acknowledgement should also ask them to confirm that the final paycheck accurately reflects all wages and accrued vacation due them.
3. For temporary employees, keep detailed records of their employment including their job assignments and the day their assignments are expected to end. Have a paycheck ready to give to the temporary employee on the last day of his or her job assignment. As with terminated employees, have the temporary employees sign a written acknowledgement confirming they received their paycheck on their last day of work and that it accurately reflects all amounts owed them.

Sue Bendavid-Arbiv and Nicholas Kanter are lawyers that counsel employers and management on employment law matters. They are with the Lewitt, Hackman firm in Encino.