

Wage Law

The California Wage And Hour Law Weblog

Caliber Collision Centers Sued, or How Far Back Can These Claims Reach?

Irvine auto-repair chain [Caliber Collision Centers is being sued](#) for alleged minimum wage and overtime violations. According to the complaint, filed in Los Angeles County Superior Court on March 23, Caliber also failed to provide breaks or meal periods and falsified the number of hours worked. The suit also alleges that Caliber did not pay back wages or accrued vacation time owed to workers who left the company.

In general, auto repair shops are likely candidates for such actions, because there are a number of illegal wage, hour and working condition violations that are common within the industry. Every time we consult with an employee from a car dealership or repair shop, we anticipate that the case will be a strong one, and we are rarely surprised.

In this case, according to the Orange County Register, the suit seeks class action status on behalf of Caliber workers who worked for the chain as hourly employees on shifts of more than 3½ hours, from 1992 to 2004. Class counsel Anthony N. Luti says he believes the class will include a total of about 600 workers from the 38 stores in the chain.

When we read the article, we wondered how Mr. Luti and his clients planned to reach back to 1992. We assumed there had to be some misunderstanding, because normally, the longest limitations period available is four years under the unfair competition law. On a complaint filed in March 2005, that would leave the wage claims accruing before March 2001 uncompensable. so we contacted Mr. Luti, and he confirmed what we suspected.

The 1992 reference was a misquote. "*The statute of limitations is four years ... 1992 reflects the year one of the representative plaintiffs began working for Caliber. It does not represent the length of the class period,*" he said.

The statute of limitations for unpaid wages under the Labor Code is three years (Code Civ. Proc. § 338 -- liability on statutory obligation), but the applicable limitations period for the claims in this class action extends to four years, because each wage violation also constitutes a violation of the California Unfair Competition Law, Business & Professions Code §§ 17200 et seq.

"As the Supreme Court unequivocally stated in Cortez v. Purolator Air Filtration Product Co. (2000) 23 Cal.4th 163, 178: "Section 17208 is clear. It provides that '[a]ny action to enforce any cause of action under this chapter shall be commenced within four years after the cause of action accrued.' (italics added.) We recognize that any business act or practice that violates the Labor Code through failure to pay wages is, by definition (§17200), an unfair business practice." Id. (emphasis added). As a consequence, the Labor Code violations in this action are subject to the four year statute of limitations in Section 17208 of the UCL. Accordingly, the class period for Plaintiff's claims in this class action starts four years prior to the filing of the Complaint."

There is no trial date or certification schedule yet in place. Curiously, Caliber has filed a demurrer to the complaint based upon Labor Code § 2699's administrative filing requirements, even though the complaint does not seek penalties under section 2699. We would be surprised if the court sustained the demurrer.

We recently had a similar case in which the defendant took this same tactic. The court acknowledged that there was no duty to exhaust administrative remedies for penalties which the plaintiffs do not seek, since section 2699 explicitly states that it does not preclude any other rights employees have under any state or federal statute. However, we told the judge we would go ahead and exhaust the remedies anyhow, and we sent our notice in and later amended the case to include the 2699 penalties. The state did nothing in response to the notice; we amended the complaint; and now the defendant's potential exposure has increased by about 2,000%. As they say, "be careful what you wish for...."

May 27, 2005 in [Class Actions](#)