

JAY G. PUTNAM
Attorney at Law

523 "B" STREET
PETALUMA, CALIFORNIA 94952
TELEPHONE (707) 778-5000

FACSIMILE (707) 778-5005
E-MAIL: jygputnam@gmail.com

April 22, 2014

HEADS UP!

"COOL-OFF" BREAK REQUIRED FOR OUTSIDE WORKERS: NEW FINES ENACTED

Effective January 1, 2014, California employers are subject to a new monetary sanction for each day "outside workers" are deprived of rest breaks intended to help them recover from the effects of excessive heat.

CLASS ACTION ALERT: Because employers who fail to provide the required "cool-down period" to one employee probably fail to do so with all similarly-situated employees, the new sanction makes this requirement an excellent candidate for a class action lawsuit or representative claim brought by one employee on behalf of all other employees who are deprived of the mandatory "cool-down" break.

Existing California regulations require covered employers to allow, and to encourage, employees who work primarily outdoors to take a "cool-down" rest period in the shade of at least five minutes whenever they feel the need to do so in order to protect themselves from excessive heat. The employer is required to provide access in the shade at all times.

Covered employers would include those in the agriculture, landscaping, construction, and oil and gas extraction industries. Certain transportation industry employers are covered as well. While the basic requirement of "cool-down" breaks is not new, the application of monetary sanctions for failure to do so took effect on January 1, 2014.

California law forbids employers from requiring employees to work during any rest period established by the California Wage Orders. Failure to provide required breaks subjects the employer to a sanction equivalent to one hour's wages at the straight-time rate for every day that a break is denied in violation of law.