

NOW & NEXT

Labor & Employment Alert

JANUARY 9, 2023

California Court of Appeal clarifies rules surrounding weekend paydays

By Robert H. Pepple and Philip Lamborn

In *Parsons v. Estenson Logistics*, the court held that earned wages due on weekends can generally be paid next weekday.



What's the Impact?

- / The Court set forth a common-sense "exception" to the often inflexible rules regarding timely payment of wages in California
- / This decision clarifies the interplay between California's Labor Code § 204 and Code of Civil Procedure § 12a, the latter of which characterizes weekends as "holidays" for which some deadlines are extended
- / The Court held that when the deadline for payment of wages falls on a weekend (i.e., a holiday), the deadline is extended to the next "non-holiday" weekday—e.g., the following Monday

Labor Code section 204 describes the deadlines for payment of wages after they have been earned under several common¹ payment paradigms:

Weekly pay periods

Employees who are paid weekly are deemed timely if paid “not more than seven calendar days following the close of the payroll period.”

Bi-weekly pay periods

Employees who are paid bi-weekly are deemed timely if paid “not more than seven calendar days following the close of the payroll period.”

Semi-monthly pay periods

Employees who have two pay periods a month must be paid according to the following schedule:

Wages Earned between 1st–15th: wages due between 16th–26th day of month.

Wages Earned between 16th–Last Day: wages due between 1–10th day of month.

Monthly pay periods (generally, exempt employees)

Once per month permitted, if on or before the 26th day of the current month (i.e., the one in which labor is being performed), provided entire salary (including unearned portion) is paid at that time.

In this case, Estenson Logistics’ (“Estenson”) employees like Mr. Parsons worked on a weekly pay period paradigm, which ran from Sunday through the following Saturday. Estenson’s practice was to pay employees on the second Monday after the end of the pay period, which was normally nine (9) calendar days after the end of the pay period. Parsons alleged this was a violation of Labor Code section 204, subdivision (d).

The Court disagreed, reasoning that California Code of Civil Procedure section 12a (Section 12a) governed Estenson’s timely payment obligations under Labor Code § 204; and that because Section 12a extends deadlines that fall on holidays to the next non-holiday, that Estenson’s practice of paying on the Monday following the weekend deadline for payment was lawful. This rule is in line with a plain reading of Section 12a, which provides:

If the last day for the performance of any act provided or required by law to be performed within a specified period of time is a holiday, then that period is hereby extended to and including the next day that is not a holiday.

California law is replete with inflexible and burdensome obligations on employers, which are made even more problematic by legal “gray areas” like the one the Court of Appeal resolved in this case. *Estenson* clarifies one such gray area and provides employers with commonsense flexibility for payment of earned wages when payday happens to fall on a weekend.

Nixon Peabody’s lawyers have extensive experience in the preparation, review, and analysis of employer pay practices, including meeting deadlines for payment of wages under Section 204. Our lawyers also have extensive experience defending against late payment of wages claims in

court. Our dedicated team of [California labor and employment attorneys](#) guide our clients through complex legal matters, including being in receipt of [PAGA Notices](#), and other unique California policies and practices.

For more information on the content of this alert, please contact your Nixon Peabody attorney or:

[Robert H. Pepple](#)

213.629.6140

rpepple@nixonpeabody.com

[Philip Lamborn](#)

213.629.6139

plamborn@nixonpeabody.com

ⁱ Different timing of payment rules apply for “temporary services employers” (Cal. Lab. Code § 201.3), salespersons for vehicle dealerships (Cal. Lab. Code 204.1), etc.