

THE ORANGE COUNTY

REGISTER

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MONDAY, Jan. 30, 2006

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# **BUSINESS MONDAY**

**THE ORANGE COUNTY REGISTER  
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# There are exceptions to meal-break rule

**Q.** I am an hourly employee and work at a restaurant, and it seems there is a major difference of opinion from management stating the law of when an hourly "needs" to take a 30-minute break. My boss says before five hours, we thought before six hours.

Could you help us, as there are a number of employees fighting this issue and we would appreciate the truth? Also, if it is between five or six hours, is it at 4:59 or at 5:59 that you must take it?

**A.** "For hourly employees, generally, your employer is required to provide a paid 30-minute meal period for any employee working more than five hours per day," says Keith G. Bremer, partner at the Newport Beach office of law firm Bremer Whyte Brown & O'Meara.

"However, if your total workday is not over six hours, then the meal period may be waived by consent of both you and your employer.

"If you work more than 10 hours total, then you must be provided with a second paid 30-minute meal period, unless your total workday is not in excess of 12 hours - in which case, again, your employer and you can mutually waive the second 30-minute meal period.

"In any event, unless your total workday is under 3½ hours, you must be given a paid 10-minute break.

"As with most labor-code issues, certain trades and employment have exclusions and/or exceptions to the above rules (example: the wholesale baking

industry) and there are exceptions depending on whether your meal period is an 'on duty' or falls within 'on call' time and also whether your employer has any alternate workweek arrangements.

"Thus, if you are concerned about your particular situation, you should provide detailed information regarding your employment and employer to an attorney for specific guidance."

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#### IF YOU HAVE QUESTIONS:

**Write:** Work Q&A, Business Monday

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Letters cannot be individually answered.