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July 27, 2023

Wage & Hour Developments



On July 11, 2023, in *Thai v. International Business Machines Corp. (IBM)*, a three-justice panel of the California First District Appellate Court overturned a trial court's dismissal of a claim by an employee that the employer violated California law when it failed to reimburse employees for work-from-home expenses during the COVID-19 pandemic.

Plaintiff and a putative class sought penalties under California Labor Code Section 2802, which requires employers to reimburse their employees for "all necessary expenditures or losses incurred by the employee in direct consequence of the discharge of his or her duties," including that they sought the cost of equipment

purchased, when they were ordered to work from home in 2020.

San Francisco Superior Court Judge Anne-Christine Massullo dismissed the lawsuit. She found that California Governor Gavin Newsom's stay-at-home order— ordering all "non-essential" workers to work from home following the outbreak of the COVID-19 pandemic in March 2020—was an "intervening event." The court concluded that this intervening event excused the employer from reimbursing employees for work-from-home expenses because the company did not direct workers to work from home and the expenses were incurred only due to the stay-at-home order.

The court of appeal disagreed. The court explained that California Labor Code section 2802 applies even when employees are required to work from home pursuant to a government mandate. The court reasoned, "[u]nder the statutory language, the obligation does not turn on whether the employer's order was the proximate cause of the expenses; it turns on whether the expenses were actually due to performance of the employee's duties." The work-from-home expenses were inherent to IBM's business and the work performed was for the benefit of IBM. As such, the employer bears the risk of the unexpected expenses from employees having to work from home during the pandemic. The court of appeal reversed the trial court's dismissal of the claim and remanded it for further proceedings.

*Thai* serves as a reminder to California employers that Labor Code Section 2802 requires employers to reimburse employees for all necessary business expenses that are incurred in the performance of job duties and that courts routinely interpret that obligation broadly in favor of employees.

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