



CAN THEY MAKE ME PAY FOR THAT?

Work-Related Expenses And Reimbursement

A White Paper Presented By

LAW OFFICES OF
TODD M. FRIEDMAN, P.C.

CAN THEY MAKE ME PAY FOR THAT?

Work-Related Expenses
And Reimbursement

If you work in California and have ever had to personally cover expenses directly related to your job — for example, by putting miles on your car when driving on the job, or using your own cellphone for work-related purposes — there is a good chance that you have a right to reimbursement.

Unfortunately, however, there is also a good chance that you will not receive that reimbursement unless you ask for it. Sometimes businesses shift costs onto employees as a deliberate and unethical way of reducing their own bottom lines; other times, they are simply unaware of the law.

Either way, the law protects you from being required to foot the bill for your employer's operating costs. Not only should you expect to receive compensation for the expenses you incur on behalf of your employer, but also you should not have to live in fear of retaliation for requesting it.



You should expect compensation for your mileage and other work-related expenses.



WHAT WORK-RELATED EXPENSES CAN BE REIMBURSED?

The laws regarding reimbursement of employee costs differ by state. In California, this is relatively broad: The California Labor Code requires employers in the state are required 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.”¹ In other words, any costs that arise as a direct and necessary part of doing your job must be reimbursed by your employer.



SPECIFIC EXAMPLES OF EXPENSES THAT ARE OFTEN REIMBURSABLE UNDER CALIFORNIA LAW INCLUDE BUT ARE NOT LIMITED TO:



Cellphones and other electronics: If you are required to use your personal cellphone for work, the law requires your employer to reimburse you for a reasonable portion of your phone bill — whether or not your phone bill is actually higher than what you would pay for solely personal use.²



Vehicle/travel costs: If you drive a company car, your employer must reimburse you for the costs you cover in the course of using the car for your job, such as fuel costs, repairs, routine maintenance, insurance premiums and car loan payments. Similarly, if you are required to use your personal car for your job, your employer must pay you back for the costs associated with that use. Keep in mind, however, that commuting to and from work is typically not considered a reimbursable expense.



Uniforms: If you are required to wear a uniform for work, the question of whether or not your employer must cover the cost of the uniform depends on the exact nature of the uniform itself. If the uniform is specific to your employer — for example if it bears a company logo — your employer is required to cover the cost of purchasing the uniform as well as necessary maintenance, including laundering and repairs. On the other hand, if the uniform is not employer-specific — for instance, if your employer simply requires you to dress in all black — then the cost of purchasing and caring for the garments may not be reimbursable.



Tools and other equipment: In most cases, if there are certain tools and equipment that you must use to do your job, your employer cannot require you to pay for those tools yourself. However, there are some limited exceptions to this generality. Hair stylists, for example, can be required to provide certain tools for themselves. Likewise, construction workers who are paid at least twice the minimum wage can be required to provide their own hammers and other tools that are customary to the trade. Power tools or nonstandard equipment, however, must be paid for or reimbursed by the employer.

WHAT LIMITS APPLY?

Although the expenses that can be reimbursed are broadly defined by California law, they are not unlimited. An employer can only be required to repay an employee for expenditures that are both reasonable and necessary in the scope of employment. Thus, an employer may not be required to reimburse an employee for unnecessary costs or for those that are unreasonably high.

This is a subjective standard that requires both employers and employees to exercise common sense when evaluating whether an expense is reasonable and necessary for the job. However, some employers may deny reimbursement requests by claiming that the costs are unnecessary or unreasonable when in fact they are not. If your employer refuses to provide you with reimbursement that you believe you are entitled to, it is a good idea to talk the situation over with an employment lawyer to see if you may have a legal claim.



REASONABLE
AND



NECESSARY

An employer can only be required to repay an employee for expenditures that are both reasonable and necessary in the scope of employment.

WHAT IF I AM AN INDEPENDENT CONTRACTOR?

California's laws regarding reimbursement of employment-related costs apply only to workers who are classified as employees. This means that those laws do not apply to individuals who work as independent contractors. Depending on the individual contract, there may be reimbursement provisions included in the contract. However, any reimbursement obligations created in such a way would be a matter of contract law rather than employment law.

Another important thing to understand is that not everyone who is classified as an independent contractor really should be. Often, companies misclassify workers as independent contractors instead of employees as a way to shift the costs of doing business onto the workers themselves.

If you are classified as an independent contractor at work and have concerns that you may be misclassified, it is a good idea to [learn more about this issue](#) and seek help from an employment lawyer if you think you may be misclassified. If your employer has misclassified you, you may be entitled to reimbursement for your expenses and other forms of financial compensation.



DO I HAVE TO ASK FOR REIMBURSEMENT?

In California, your employer can be required to reimburse you for your reasonable job-related expenses even if you do not ask to be reimbursed.³ It is up to employers to make sure that employees are properly repaid for the costs they incur on behalf of the business. Thus, any time your boss knows — or should know — that you have incurred a work-related expense, it is up to him or her to make sure the company repays you for the expense whether you request it or not.



CAN MY BOSS PUNISH ME FOR REQUESTING PAYMENT?

If your boss owes you money for work-related expenses, you may feel uncomfortable or even afraid to ask for reimbursement. However, you should not let that stop you from exercising your rights. California law clearly states that your employer – not you – must bear the cost of doing business, and it also protects you against the risk of retaliation for requesting payment for expenses you incur on behalf of your employer.

Unfortunately, just because the law prohibits retaliation does not mean that it never happens. Sometimes employers are unaware they are breaking the law by retaliating against workers for asserting their rights, and other times they do so despite knowing full well that their actions are illegal.

Either way, if your employer illegally retaliates against you for asserting your right to reimbursement for your expenses, you may have the option of pursuing a legal claim in civil court.

If your claim is successful, there may be a variety of remedies available to you, including potential monetary compensation and reinstatement of employment.

HOW MUCH TIME DO I HAVE TO REQUEST REIMBURSEMENT?

By law, in California, you cannot waive your right to be paid back for the expenses you incur on behalf of your employer. This means that you have a right to repayment of applicable expenses regardless of any other agreement you may have had with your boss. Any agreement that seeks to waive or curtail your right to payment is considered unlawful under California law and cannot be enforced in court.

However, the right to seek reimbursement does not last forever; under California law, you are only entitled to repayment for a period of four years after the date that the expense is incurred. Once that deadline has passed, you may no longer be able to obtain reimbursement for your unpaid work expenses through the civil legal system.



Super Lawyers®



TODD M. FRIEDMAN

Founding partner of the
Law Offices of Todd M. Friedman, P.C.

Just as your job is probably much more than just a source of income for you, employment law is not just a career choice for me — it is a passion. I practice employment law because the issues my clients face are issues I have faced in my own life.

Before beginning my legal career, I spent time working in other industries, including a stint as a food runner in the restaurant business. I have been required to purchase my own uniform; I have worked in hostile environments and have dealt with abusive, temperamental bosses. I understand that work is often a deeply personal matter, and that being mistreated by an employer can often lead to problems in nearly every aspect of life both on and off the job.

I am committed to helping people understand and protect their rights in the workplace. As the founding partner of the Law Offices of Todd M. Friedman, PC, I have had the privilege of representing clients in a wide range of employment-related legal matters, helping them to assert their legal rights and restore balance to the employer-employee relationship.

SUPER LAWYERS • 2016

Super Lawyers is a patented rating service of outstanding lawyers who have attained a high-degree of peer recognition and professional achievement. This exclusive honor is awarded to only the top 5 percent of attorneys per state.

CONTACT US

Visit our site: www.toddflaw.com

Call our firm: 888-572-6059

Share the white paper



SOURCES & COPYRIGHT

¹ Cal. Lab. Code § 2802(a)

² Cochran v. Schwan's Home Serv., Inc., B247160, 2014 WL 3965240 (Cal. Ct. App. Aug. 12, 2014)

³ Stuart v. RadioShack Corp., 641 F. Supp. 2d 901 (N.D. Cal. 2009)

The content of this paper is provided for informational purposes and does not constitute legal advice.

© 2016 Law Offices of Todd M. Friedman, P.C.
All rights reserved. Design and editorial services by
Super Lawyers, part of Thomson Reuters.

