

Wage Statements May Contain Fictitious Business Names, California Court of Appeal Affirms

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While best practices would be to use the employer's registered name, a recent Court of Appeal opinion has upheld an employer's use of its fictitious business name in its wage statements.

California Labor Code section 226 lists information that must be included in every employee's wage statement. Pursuant to subsection (a)(8), one piece of information required is "the name and address of the legal entity that is the employer." Employers can face substantial penalties if they do not provide accurate information.

In Savea v. YRC Inc., a plaintiff alleged its employer violated subsection (a)(8) by failing to include the company's name as registered with California's Secretary of State, as well as not including a "mail stop code" or the ZIP+4 code on employees' wage statements. The employer's name registered with the Secretary of State was "YRC Inc." However, the wage statements listed the employer name as "YRC Freight," which was the employer's recorded fictitious business name. The employer moved to dismiss the plaintiff's complaint on the grounds that its fictitious business name was used "to transact all regular business in California" and the listed address was the employer's correct mailing address. The employer argued there was no authority or requirement to include a "mail stop code" or the ZIP+4 code in an employer's address. The trial court agreed with the employer, and the plaintiff appealed the dismissal.

On the alleged improper employer name, the appellate court recognized the employer's name on the wage statement matched the actual recorded fictitious business name at the time the employer issued the wage statements. The court noted that California's Business and Professions Code permits companies to transact business and to initiate a lawsuit (or to be sued) under its fictitious business name. The court also said there was no confusion over the employer's identity, the employee was not required to reference any other documents to determine the employer's identity, and the fictitious business name was properly recorded at all relevant times.

On the alleged improper employer address, the appellate court noted the statute requires nothing more than the employer provide its "address." The plaintiff was unable to dispute the employer provided the proper address. He also could not identify any authority for the proposition a mail stop

code or a ZIP+4 code was required. The court also took notice that the agency tasked with enforcing California's Labor Laws (the Division of Labor Standards Enforcement) had previously issued a wage statement template. In that template, the model address does not include a mail stop code or a ZIP+4 code. Thus, the court found the employer's given address was proper.

In short, this case represents a small victory for employers. Historically, use of the employer's registered name ensured compliance with the Labor Code 226(a)'s name requirement. This case supports the use of an employer's fictitious business name as well.

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