

## California Supreme Court Ruling Will Result in a Higher OT Rate for Employer's Who Pay Flat Bonuses

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The California Supreme Court issued a decision on March 5, 2018 (*Alvarado v. Dart Container Corp*) regarding the proper method under California law to calculate nonexempt employees' overtime rate of pay when those employees receive a flat bonus, which generally are payments that do not vary on factors such as effort or productivity. Flat bonuses include attendance bonuses, seniority/longevity bonuses, and certification bonuses.

The court adopted the view pushed by the Division of Labor Standard Enforcement that the amount of a flat bonus must be divided by only the employee's actual non-overtime hours worked and then multiplied by 1.5 to calculate the employee's overtime rate. This is different from the calculation method allowed under the federal Fair Labor Standards Act where the flat bonus is divided by all hours worked—straight time and overtime hours—and then multiplied by 0.5 to calculate the employee's overtime rate.

The method required by the California Supreme Court results in a much higher overtime rate than the federal method. As part of the decision, the Court indicated that the decision applies retroactively, as they interpreted this as not a new standard of law. The court clarified that its holding is limited to flat bonuses, and that a different analysis may be warranted for other types of non-hourly compensation whose amounts are roughly increased based on hours worked, such as a production or piecework bonus or commission.

[Please share your thoughts!](#)

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