

"Grocery Delivery Drivers Sue Over Alleged Wage and Hour Infractions," quoted Arthur Gaus, Esq., in Journal of the Society for Human Resources Management, 4-3-2023

Delivery drivers recently filed a class-action lawsuit against Weee!, a large online grocer based in Fremont, Calif., for numerous types of alleged wage and hour violations. The allegations, filed on March 23, include:

- Misclassifying over 100 drivers as independent contractors.
- Making unlawful deductions from drivers' tips.
- Failing to provide drivers with adequate meal and rest periods.
- Failing to pay for work performed during unpaid meal breaks.
- Violating health and safety regulations. (*see Read More for full article*)...

Handling Tips and Breaks Properly...

... If the company was "offsetting their wages by including tips, I would be extremely concerned about that behavior, and I would advise against it," said Arthur Gaus, an attorney with Kaufman Dolowich Voluck in San Francisco. "You can't be forced to share your tips with owners. Your employer can't include your tips toward minimum wage obligations." ...In California, "the employer's burden is satisfied by authorizing and permitting employees to take meal and rest breaks," which must be within the first five hours of a work shift, Gaus said. The employer doesn't have to remind workers or enforce the breaks...."Employees are allowed to raise issues around the terms and conditions of employment, full stop, and if they experience retaliation on the basis of raising those issues, it would in my estimation create significant liability risk under California state statute and Section 7 of the NLRA," Gaus said. "What is definitely a wrong way to deal with it is to take an adverse employment action against employees who raised issues related to the terms and conditions of employment."