

Sheppard Mullin Wins Significant Employment Victory Before CA Supreme Court

12.10.2018

Today, the California Supreme Court handed down its unanimous decision in *Gerard et al. v. Orange Coast Memorial Medical Center*, affirming the Court of Appeal ruling that hospital employees who work 12-hour shifts will be able to enjoy scheduling flexibility and confine their work schedules to a span of 12 ½ rather than 13 hours. The voluntary meal period waivers were found permissible even on shifts when employees happen to work more than 12 hours. Likewise, hospitals will no longer face the threat of tens of millions of dollars in liability for meal period violations for simply relying on the state regulations, called Wage Orders, that allow health care employees to voluntarily waive one of their two meal periods when they work long shifts. Hospitals with collective bargaining agreements (CBAs) are also relieved of the concerns that would have occurred whenever negotiated CBA provisions tracked the provisions in the Wage Order to allow meal period waivers. The Sheppard Mullin team has represented Orange Coast Memorial Medical Center in this case since 2008.

“Sheppard Mullin is the only law firm to win an employment case before the California Supreme Court in 2018,” said lead partner Richard J. Simmons. “Over the past year, the Supreme Court has ruled unanimously against employers and businesses in three high-profile cases: *Alvarado v. Dart Container*, *Dynamex Operations v. Superior Court*, and *Troester v. Starbucks*. Needless to say, we are extremely gratified that the Court has ruled unanimously in our client’s favor and we are also very appreciative of the California Hospital Association’s unending support for our position over the past few years.”

In addition to winning in the trial court, the Sheppard Mullin team persuaded the Court of Appeal that first ruled against Orange Coast Memorial Medical Center in 2015 to reverse its decision in 2017 and admit that it had erred. Simmons and his team also assisted in drafting and enacting legislation (SB 327) that was unanimously approved by the California Assembly and the Senate and was signed into law in October 2015 to confirm the validity of our position. Notably, the Supreme Court independently concluded that Orange Coast’s legal arguments were correct, even without SB 327, which simply reinforced the same conclusion.

The Sheppard Mullin team, led by partner Richard Simmons, included two of Sheppard Mullin’s leading appellate attorneys, Robert Stumpf and Karin Vogel, and employment attorneys Daniel McQueen and Derek Havel. Many others played key roles over the 10-year period of litigation.

[Click here to read the Court’s ruling](#)

Attorneys

Derek Havel

Richard J. Simmons

Robert J. Stumpf, Jr.

Practice Areas

Healthcare

Labor and Employment

Industries

Healthcare