

## Publications

### *Labor and Employment Alert: California Supreme Court Issues Much-Anticipated Meal and Rest Break Decision*

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This afternoon, the Supreme Court of California issued an opinion in *Brinker Restaurant v. S.C. (Hohnbaum)*, Case No. S166350. The much-anticipated decision discussed the meal and rest break requirements under California law, and the extent to which a court must resolve disputed legal issues before certifying a class action.

Addressing the most anticipated issue, the court held that, under the California Labor Code, employers are **not** required to "police meal breaks" and ensure that no work is performed. Rather, employers need only relieve employees of all duty, relinquish control over employees' activities and permit employees a reasonable opportunity to take an uninterrupted 30 minute break, without impeding them or discouraging them from doing so. Interestingly, however, in a footnote the court recognized that if an employer does relieve an employee of all duties and the employee nonetheless chooses to continue to work through this meal period, the employer may be liable for straight pay if it knows or has reason to know that the employee is performing work during the meal period.

The court also addressed whether employers were required to provide meal breaks on a "rolling basis" for every 5 hours of work. Plaintiffs argued that if an employee took a meal break early in his or her shift, and more than 5 hours remained in their shift upon their return, then the employee was entitled to an additional, second meal period. The court rejected this argument, and held that, absent a waiver, California law only requires the first meal period be taken no later than the end of an employee's 5<sup>th</sup> hour of work, and a second meal period be taken no later than the end of an employee's 10<sup>th</sup> hour of work.

The court also addressed the paid rest breaks required under California law. Plaintiffs argued that employers must provide one rest break after an employee has worked 2 hours, a second rest break after 6 hours, and a third rest break after 10 hours. The court rejected this argument, holding that employers must provide: 10 minutes of rest for shifts 3 1/2 hours up to 6 hours in length; 20 minutes of rest for shifts over 6 hours up to 10 hours in length; and 30 minutes of rest for shifts over 10 hours

up to 14 hours in length.

With respect to the timing of rest breaks, the court held that employers must make a good faith effort to authorize and permit rest breaks in the middle of each work period, but may deviate from this "preferred course" where taking a rest break in the middle of the work period would be impractical. The court also rejected the argument that California law requires employers to provide rest breaks before the employee's meal break, reasoning that there is nothing "per se illegal" about taking a meal break before a rest break and vice versa.

Finally, the court addressed the extent to which a trial court must resolve disputed legal issues before certifying a class action. The court held that a trial court should resolve disputed threshold legal or factual questions only to the extent that the propriety of certification depends upon them. Accordingly, a trial court does not abuse its discretion if it certifies a class without deciding one or more issues affecting a particular element of a claim, so long as the resolution of the issue does not affect the ultimate certification decision. The Supreme Court emphasized that, in the case at hand, it was resolving the legal issues regarding meal and rest breaks because the parties requested that the court resolve them—not because it was required to resolve the issues in order for a class to be certified.

While this decision is certainly good news for employers that do business in California, it is still important for all such employers to carefully review their meal and rest policies, and to comply with the Labor Code requirements as discussed by the Supreme Court.

The full opinion is available and can be viewed [here](#).