

California High Court Clarifies California Meal-and-Rest Rules

By Mia Farber, Cynthia L. Filla, Samantha N. Hoffman, Joel P. Kelly, Scott C. Lacunza and Cary G. Palmer

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In welcome news for many California employers facing class actions based on the state break rules, the California Supreme Court has held that employers need not ensure that their workers take meal periods required by California law, but only that workers are provided the meal periods. The employer's obligation "is to relieve its employee of all duty, with the employee thereafter at liberty to use the meal period for whatever purpose he or she desires, but the employer need not ensure that no work is done," the Court explained. *Brinker Restaurant Corp. v. Superior Court (Hohnbaum)*, No. S166350 (Calif. Apr. 12, 2012). Should the employee choose to work after being relieved of duty, however, he or she must receive pay for the time worked, but is not entitled to the one hour of premium pay under California law for working during a meal break.

In agreement with the Labor Commissioner's interpretation of California law, the Court ruled that unless a waiver applies, the worker's first meal period must start by the end of the fifth hour worked, and, if an employee is eligible for a second meal period, it must start by the end of the tenth hour worked. A waiver is permitted under the following circumstances:

- If the day's work will end within six hours;
- A second meal period may be waived if the first was not waived and the workday will not exceed 12 hours; or
- If the nature of the work cannot be interrupted (e.g., a continuous operation such as running a printing press), a voluntary on-duty meal period is permitted.

As to rest breaks under provisions of the Industrial Welfare Commission Wage Orders, the Court confirmed that workers must be authorized and permitted to take an uninterrupted net 10 minutes for each four hours worked "or major fraction thereof." A "major fraction" means a fraction greater than one-half and in excess of two hours. There is no requirement that a rest period be provided before any meal period. Rest breaks must fall in the middle of work periods "insofar as practicable." The Court said, "Employers are thus subject to a duty to make a good faith effort to authorize and permit rest breaks in the middle of each work period, but may deviate from that preferred course where practical considerations render it infeasible." It expressly stated no view as to what may be "practical" or "infeasible."

Finally, addressing the issue of class certification, the Court explained that trial courts, as a matter of law, need not resolve threshold disputes over the elements of a plaintiff's claims, unless a particular determination is necessarily dispositive of the certification question. It laid out the following "governing principles":

Presented with a class certification motion, a trial court must examine the plaintiff's theory of recovery, assess the nature of the legal and factual disputes likely to be presented, and decide whether individual or common issues predominate. To the extent the propriety of certification depends upon disputed threshold legal or factual questions, a court may, and indeed must, resolve them. Out of respect for the problems arising from one-way intervention, however, a court generally should eschew resolution of such issues unless necessary.... Consequently, a trial court does not abuse its discretion if it certifies (or denies certification of) a class without deciding one or more issues affecting the nature of a given element if resolution of such issues would not affect the ultimate certification decision.

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This is only a brief summary of the Court's decision. Given the intricacies involved in the California break laws, employers should address specific scenarios with counsel.

Meet the Authors



[Mia Farber](#)

Principal
Los Angeles
213-630-8284
[Email](#)



[Cynthia L. Filla](#)

Principal
Los Angeles
213-689-0404
[Email](#)



[Samantha N. Hoffman](#)

Firm Managing Principal
Orange County
949-885-1360
[Email](#)



[Joel P. Kelly](#)

Principal
Los Angeles
213-630-8235
[Email](#)

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Scott C. Lacunza

Principal
Orange County
949-885-1360
Email



Cary G. Palmer

Principal
Sacramento
916-341-0404
Email

Practices

Litigation
Wage and Hour

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